

EXHIBIT A

As Played 10-20-23

Designation List Report



Bell, Donald

Bell, Donald

2013-08-20

2013-08-21

Plaintiff Designations	01:50:41
Defense Designations	00:02:33
Plaintiff Counters	00:01:26
Defense Counters	00:09:35
Plaintiff Reply to Counters	00:00:37
Defense Reply to Counters	00:00:20
Overlaps	00:27:42
TOTAL RUN TIME	02:32:55



Documents linked to video:

1
1S
16
32
154
160
205
206
240
245
256
260
272
328
385
592
696
824
825
826



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DESIGNATION	SOURCE	DURATION	ID
18:25 - 19:06	Bell, Donald 2013-08-20	00:00:08	Bell_Final.1
	18:25 THE VIDEOGRAPHER: Thank you very much.		
	19:01 Will the court reporter please administer		
	19:02 the oath.		
	19:03		
	19:04 DONALD L. BELL,		
	19:05 having been administered an oath, was examined and		
	19:06 testified as follows:		
19:12 - 19:14	Bell, Donald 2013-08-20	00:00:09	Bell_Final.2
	19:12 Q. Could you please state your full name and		
	19:13 current address for the record.		
	19:14 A. Donald D. Bell, B-e-l-l....		
19:15 - 19:16	Bell, Donald 2013-08-20	00:00:08	Bell_Final.3
	19:15 I-n-t-e-r-v-a-l-e, Drive, Riverside, California		
	19:16 92506.		
22:01 - 22:04	Bell, Donald 2013-08-20	00:00:08	Bell_Final.4
	22:01 Are you employed today?		
	22:02 A. No. I'm retired.		
	22:03 Q. How long have you been retired?		
	22:04 A. Since 2001.		
23:01 - 23:01	Bell, Donald 2013-08-20	00:00:03	Bell_Final.5
🔗 16.1.6	23:01 Q. I'm handing you what's been marked Bell 1.		
23:09 - 23:13	Bell, Donald 2013-08-20	00:00:12	Bell_Final.6
🔗 16.1.6	23:09 Can you just start by identifying this as		
	23:10 an e-mail written by Gene Gregory on April 13, 2009		
🔗 16.1.4	23:11 and you were copied and it was sent to a number of		
	23:12 people?		
	23:13 A. That's true, yes.		
23:17 - 23:19	Bell, Donald 2013-08-20	00:00:12	Bell_Final.7
🔗 16.1.5	23:17 Q. All right. And this indicates that you had		
	23:18 informed UEP in early 2009 that you were going to		
	23:19 finally retire effective July 1, 2009, correct?		
23:21 - 23:21	Bell, Donald 2013-08-20	00:00:01	Bell_Final.8
☒ Clear	23:21 THE WITNESS: Yes.		
24:02 - 25:04	Bell, Donald 2013-08-20	00:01:40	Bell_Final.9
	24:02 Q. Okay. After that date of July 1, 2009,		
	24:03 have you done any work or consulting in the egg		

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DESIGNATION	SOURCE	DURATION	ID
	24:04 industry that you were paid for?		
	24:05 A. No.		
	24:06 Q. Now, you referred to retiring in 2001.		
	24:07 What did you retire from in 2001?		
	24:08 A. Well, my position was University of		
	24:09 California poultry specialist statewide. Now my		
	24:10 title is emeritus in that same title.		
	24:11 Q. Okay. So after 2001 you became emeritus?		
	24:12 A. Yes.		
	24:13 Q. And what is a poultry specialist?		
	24:14 A. A poultry specialist is one of the staff of		
	24:15 the state land grant institution in the cooperative		
	24:16 extension, not university extension, but cooperative		
	24:17 extension.		
	24:18 This organization is part of the role of		
	24:19 the university to teach, research and extend		
	24:20 information.		
	24:21 My role was to work with the poultry		
	24:22 industry of California, mostly in educational,		
	24:23 research areas.		
	24:24 Q. Did you teach courses in that position?		
	24:25 A. Just adult courses from time to time, but		
	25:01 nothing formal.		
	25:02 Q. And over what period did you hold that		
	25:03 position?		
	25:04 A. 55 years.		
25:25 - 26:02	Bell, Donald 2013-08-20	00:00:05	Bell_Final.10
	25:25 Q. Did you contribute any reports or		
	26:01 analyses to UEP and its members?		
	26:02 A. Yes.		
26:13 - 26:14	Bell, Donald 2013-08-20	00:00:06	Bell_Final.11
	26:13 Approximately when did you start		
	26:14 contributing reports and analyses to UEP's members?		
26:20 - 26:21	Bell, Donald 2013-08-20	00:00:05	Bell_Final.12
	26:20 Since the formation of UAP. I don't know		
	26:21 what year that was, but since the beginning.		
27:13 - 27:14	Bell, Donald 2013-08-20	00:00:05	Bell_Final.13
	27:13 Q. How long were you affiliated with UEP,		
	27:14 specifically?		

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DESIGNATION	SOURCE	DURATION	ID
27:24 - 28:03	Bell, Donald 2013-08-20	00:00:26	Bell_Final.14
	27:24 THE WITNESS: As I say, I began working in 27:25 cooperation at the beginning of their organization 28:01 with their chairperson. And, of course, I've always 28:02 had the relationship with their members on a 28:03 one-on-one basis in my regular duties.		
28:05 - 28:18	Bell, Donald 2013-08-20	00:00:34	Bell_Final.15
	28:05 Q. But was there a period when you were 28:06 retained to provide industry statistics and economic 28:07 reports for UEP? 28:08 A. Yes. 28:09 Q. When did that cease? 28:10 A. Cease or start? 28:11 Q. Cease. 28:12 A. Cease. I assume it's the same date we just 28:13 talked about, 2009 when I terminated. 28:14 Q. And when did that start? 28:15 A. I was afraid you'd ask me that. 28:16 Q. Approximately. 28:17 A. I would say it might have been a ten-year 28:18 relationship.		
28:19 - 29:08	Bell, Donald 2013-08-20	00:01:02	Bell_Final.16
	28:19 Q. Now, what type of reports did you prepare 28:20 for UEP and its members? 28:21 A. Prior to my working with UEP, in fact since 28:22 the beginning of 1958, I've always written economic 28:23 reports for the industry. And UEP asked that I 28:24 continue this work with them and with their members. 28:25 And the Iowa State Egg Center now is continuing that 29:01 work also. 29:02 Q. And so you referred to economic reports 29:03 that UEP asked you to provide. How would you 29:04 describe those economic reports? 29:05 A. Well, we had three regular newsletters on 29:06 economics -- pardon me, four. And they would be on 29:07 anything to do with the egg industry, primarily the 29:08 table egg industry.		
29:21 - 30:05	Bell, Donald 2013-08-20	00:00:21	Bell_Final.17
	29:21 Q. Now, of the reports that you prepared for 29:22 UEP and its members, did you prepare reports that		

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DESIGNATION	SOURCE	DURATION	ID
	<p>29:23 projected the size of the nation's table egg laying</p> <p>29:24 flock?</p> <p>29:25 A. Yes, we do that. We've done that since the</p> <p>30:01 beginning every month.</p> <p>30:02 Q. Did you prepare analyses of the</p> <p>30:03 relationship between flock size and income in the</p> <p>30:04 egg industry?</p> <p>30:05 A. Yes.</p>		
30:08 - 30:18	Bell, Donald 2013-08-20	00:00:55	Bell_Final.18
	<p>30:08 Q. And what was the purpose of those types of</p> <p>30:09 reports and analyses?</p> <p>30:10 A. Well, they are all aimed at maintaining a</p> <p>30:11 healthy industry. Healthy is usually interpreted as</p> <p>30:12 being economically sound. And you're working with a</p> <p>30:13 mass audience as opposed to individuals.</p> <p>30:14 Individual consulting without a fee is</p> <p>30:15 available at all times for any of these discussions,</p> <p>30:16 but as we feel -- as I feel the needs of the</p> <p>30:17 industry, along with any given line, I will tend to</p> <p>30:18 emphasize that for a time period.</p>		
30:23 - 31:16	Bell, Donald 2013-08-20	00:01:14	Bell_Final.19
	<p>30:23 Q. All right. How did the analyses that you</p> <p>30:24 prepared of the relationship between flock size and</p> <p>30:25 income relate to maintaining a healthy industry?</p> <p>31:01 A. Well, first of all, we have to be concerned</p> <p>31:02 about costs, and then we have to be concerned about</p> <p>31:03 income.</p> <p>31:04 The greatest income is from eggs in this</p> <p>31:05 particular case; that's almost 100 percent of it.</p> <p>31:06 At times it might have been as low as 90 percent,</p> <p>31:07 but it is normally -- today it is about a hundred.</p> <p>31:08 Costs are predominantly feed. And so we</p> <p>31:09 place a lot of emphasis on feed costs and feed</p> <p>31:10 consumption, factors affecting feed consumption and</p> <p>31:11 so on. And then the other costs make up the balance</p> <p>31:12 of -- and so between the two, costs and income, we</p> <p>31:13 have a measure of the well-being of the industry.</p> <p>31:14 Q. And what was the purpose of projecting the</p> <p>31:15 size of the nation's table egg laying flock and</p> <p>31:16 looking at flock size?</p>		

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DESIGNATION	SOURCE	DURATION	ID
31:22 - 32:04	Bell, Donald 2013-08-20	00:00:35	Bell_Final.20
	31:22 There are many, many reasons why prices 31:23 change. And the main one that's recognized is the 31:24 size of the flock. More eggs, less price; less 31:25 eggs, more price.		
	32:01 Q. Now, would it be fair to say that one focus 32:02 of your work was providing sound data that UEP could 32:03 use to help persuade its members to manage egg 32:04 supply?		
32:06 - 32:06	Bell, Donald 2013-08-20	00:00:02	Bell_Final.21
	32:06 THE WITNESS: Yes.		
32:17 - 32:21	Bell, Donald 2013-08-20	00:00:11	Bell_Final.22
	32:17 Q. Based on your years of experience 32:18 being affiliated with UEP, would it be fair to say 32:19 that one of the things that UEP did was to try to 32:20 persuade its members to manage egg supply? 32:21 A. Yes.		
33:02 - 33:03	Bell, Donald 2013-08-20	00:00:04	Bell_Final.23
	33:02 Q. And did UEP, from time to time, ask for 33:03 your assistance in doing that?		
33:05 - 33:09	Bell, Donald 2013-08-20	00:00:14	Bell_Final.24
	33:05 THE WITNESS: I'd say yes and no. 33:06 BY MR. OLSON: 33:07 Q. Did UEP, from time to time, ask for you to 33:08 prepare reports or analyses that would help it 33:09 persuade its members to manage egg supply?		
33:11 - 34:11	Bell, Donald 2013-08-20	00:01:33	Bell_Final.25
	33:11 THE WITNESS: I'd have to say yes and no 33:12 again. 33:13 BY MR. OLSON: 33:14 Q. And what's the yes part? 33:15 A. The yes part is that everyone associated 33:16 with the egg industry recognizes the relationship 33:17 between volume of production, bird members and 33:18 price. And it's -- the relationships are fairly 33:19 well established. 33:20 Anything that I would say -- that we have 33:21 too many chickens, that we don't have enough 33:22 chickens -- in a hundred examples, not just in so		

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DESIGNATION	SOURCE	DURATION	ID
	<p>33:23 many words, but in a hundred different examples,</p> <p>33:24 applications, that that would be one of my roles,</p> <p>33:25 uh-huh.</p> <p>34:01 Q. And one of your roles was to provide data</p> <p>34:02 that would help the industry balance the supply of</p> <p>34:03 eggs with the demand for eggs, right?</p> <p>34:04 A. That's right. We provided a one-source</p> <p>34:05 place to go for statistics. The statistics didn't</p> <p>34:06 start with me, but they were focused by me on the</p> <p>34:07 problem.</p> <p>34:08 Q. And were there times that UEP or its</p> <p>34:09 leaders, like Gene Gregory, for example, would ask</p> <p>34:10 you to develop plans for the industry at times when</p> <p>34:11 there was an oversupply of eggs in the market?</p>		
34:13 - 34:19	Bell, Donald 2013-08-20	00:00:15	Bell_Final.26
	<p>34:13 THE WITNESS: Yes.</p> <p>34:14 BY MR. OLSON:</p> <p>34:15 Q. And were there times when you were invited</p> <p>34:16 to give presentations to the UEP board of directors</p> <p>34:17 regarding ideas for how to balance supply of eggs</p> <p>34:18 with demand?</p> <p>34:19 A. Yes.</p>		
34:20 - 35:10	Bell, Donald 2013-08-20	00:00:50	Bell_Final.27
	<p>34:20 Q. And were there times when you were invited</p> <p>34:21 to USEM meetings? And are you familiar with what</p> <p>34:22 USEM is?</p> <p>34:23 A. I've never been invited to their meetings.</p> <p>34:24 Q. Are you sure?</p> <p>34:25 A. Are you talking about the egg</p> <p>35:01 marketing association -- producers --</p> <p>35:02 Q. Sorry. United States Egg Marketers.</p> <p>35:03 A. I may have been to their meeting once,</p> <p>35:04 but -- I think I'll have to say I may have been.</p> <p>35:05 There are so many different organizations, and --</p> <p>35:06 associated with the egg industry, including Urner</p> <p>35:07 Barry and so on.</p> <p>35:08 But I seem to recall that I might have had</p> <p>35:09 a meeting with the marketing association, but</p> <p>35:10 certainly nothing routinely.</p>		
35:16 - 36:03	Bell, Donald 2013-08-20	00:00:44	Bell_Final.28

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DESIGNATION	SOURCE	DURATION	ID
	35:16 Q. Well, to your knowledge, what is a flock 35:17 reduction program? 35:18 A. Well, it could be cage density. That's 35:19 probably the most visible. It could be when we 35:20 worked with them for a national marketing order to 35:21 license production and I wrote several papers, so 35:22 it's a difficult one to answer with one word. 35:23 Q. It could include a number of different 35:24 things, is that your point? 35:25 A. Yes, I guess. 36:01 Q. Now, the first one you mentioned is cage 36:02 density. How can cage density be used in a flock 36:03 reduction program?		Bell_Final.28
36:12 - 37:04	Bell, Donald 2013-08-20 36:12 THE WITNESS: Cage density to most people 36:13 means how much space do you give your chickens, and 36:14 that also is related to how many birds you put in 36:15 the cage. It's not necessarily the number of birds 36:16 you have in the nation, that's not cage density. 36:17 That's hen population. 36:18 Cage density, I first started my research 36:19 with the extension service in about 1963 with cage 36:20 density experiments. At that time most cages held 36:21 one bird. The industry readily found that that was 36:22 not the way to go, it was not the economic way to go 36:23 and so they went to two. 36:24 What does that do? That increases the 36:25 population by a hundred percent. And then they went 37:01 to three, and so on, and so on. 37:02 So cage density is one of the easiest 37:03 things to correct and to demonstrate that this is 37:04 too much or too little.	00:01:18	Bell_Final.29
37:05 - 37:17	Bell, Donald 2013-08-20 37:05 BY MR. OLSON: 37:06 Q. And how does cage density relate to flock 37:07 reduction, specifically? 37:08 A. The same thing. The -- if we're interested 37:09 in reducing the flock size because the profitability 37:10 of the industry is absent, that's one of the first 37:11 things that anybody can do. And it's also not only	00:00:41	Bell_Final.30

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DESIGNATION	SOURCE	DURATION	ID
	37:12 useful to the industry as a whole, but it is 37:13 extremely useful to the individual who is going 37:14 bankrupt. 37:15 There's always the individual -- 37:16 individual's needs as opposed to the industry's 37:17 needs.		
37:18 - 37:21	Bell, Donald 2013-08-20	00:00:08	Bell_Final.31
	37:18 Q. Now, are these points about cage density 37:19 that you were just making ones that you communicated 37:20 to UEP and its members? 37:21 A. All the time --		
37:23 - 38:03	Bell, Donald 2013-08-20	00:00:22	Bell_Final.32
	37:23 THE WITNESS: All the time, yes. 37:24 BY MR. OLSON: 37:25 Q. And it would be fair to say that -- that 38:01 you recognize, based on your work for the industry, 38:02 that one way UEP members could manage egg supply was 38:03 by adopting guidelines relating to cage density?		
38:05 - 38:08	Bell, Donald 2013-08-20	00:00:11	Bell_Final.33
	38:05 THE WITNESS: Yes. 38:06 BY MR. OLSON: 38:07 Q. And one way of adopting those guidelines 38:08 would be to adopt welfare guidelines?		
38:10 - 38:17	Bell, Donald 2013-08-20	00:00:32	Bell_Final.34
	38:10 THE WITNESS: Welfare guidelines is a broad 38:11 series of management tools that does not just 38:12 include cage density, but cage density is one of the 38:13 issues that can contribute to this. 38:14 So -- go ahead. 38:15 BY MR. OLSON: 38:16 Q. And one of the things that welfare 38:17 guidelines could be used for is to manage supply?		
38:19 - 38:24	Bell, Donald 2013-08-20	00:00:25	Bell_Final.35
	38:19 THE WITNESS: That is an outcome of 38:20 managing cage density, would be to manage the flock 38:21 size, but it's also a way of managing the flock's 38:22 health and welfare and other issues that are in 38:23 demand by the industry, by the people associated 38:24 with the industry.		

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DESIGNATION	SOURCE	DURATION	ID
39:01 - 39:18	Bell, Donald 2013-08-20	00:00:48	Bell_Final.36
39:01	Q. Now, you -- we were talking about factors		
39:02	that impact national egg supply and we've been		
39:03	talking about cage density.		
39:04	I take it, as a result of your work in the		
39:05	industry, you identified other factors that would		
39:06	affect national egg supply; is that right?		
39:07	A. Yes.		
39:08	Q. And let me identify a factor, and you let		
39:09	us know if it's one you identified as playing a		
39:10	major role --		
39:11	A. Yes.		
39:12	Q. -- in affecting national egg production.		
39:13	The degree of flock recycling, is that a		
39:14	factor?		
39:15	A. Yes.		
39:16	Q. And that refers to the molting process,		
39:17	correct?		
39:18	A. Recycling means molting, yes.		
39:19 - 39:21	Bell, Donald 2013-08-20	00:00:11	Bell_Final.37
39:19	Q. And as part of your work, you recognized		
39:20	that molting could be a way of impacting national		
39:21	egg production?		
39:23 - 40:02	Bell, Donald 2013-08-20	00:00:18	Bell_Final.38
39:23	THE WITNESS: That would not be the goal of		
39:24	anything I've ever done on molting. The goal of		
39:25	using molting is to reduce costs and, therefore,		
40:01	improve margins for the individual producers.		
40:02	BY MR. OLSON:		
40:03 - 40:12	Bell, Donald 2013-08-20	00:00:25	Bell_Final.39
40:03	Q. But you recognize that molting also		
40:04	affected output, right?		
40:05	A. Everything affects output.		
40:06	Q. Molting does?		
40:07	A. Go ahead with the rest of them, but		
40:08	everything affects output.		
40:09	Q. Including molting, right?		
40:10	A. Yes, up and down.		
40:11	Q. But, in general, your work indicated to you		
40:12	that using molting affected output down?		

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DESIGNATION	SOURCE	DURATION	ID
40:15 - 40:21	Bell, Donald 2013-08-20	00:00:26	Bell_Final.40
	40:15 Q. Right?		
	40:16 A. One of the outcomes of the replacement		
	40:17 program which includes molting, is average egg		
	40:18 production will be less.		
	40:19 Q. And were there times when UEP, as part of		
	40:20 its efforts to address supply issues, would		
	40:21 recommend early molting programs to its members?		
40:25 - 41:04	Bell, Donald 2013-08-20	00:00:12	Bell_Final.41
	40:25 Q. To your knowledge?		
	41:01 A. Yes.		
	41:02 Q. And what is the purpose of recommending an		
	41:03 early molting program in order -- how does that		
	41:04 relate to managing supply?		
41:06 - 41:23	Bell, Donald 2013-08-20	00:01:07	Bell_Final.42
	41:06 THE WITNESS: When you molt chickens, that		
	41:07 particular flock goes to zero production. And if		
	41:08 the country is overproducing, then a number of		
	41:09 farmers going to zero production over given a period		
	41:10 of time is beneficial to the industry because it		
	41:11 reduces egg numbers.		
	41:12 BY MR. OLSON:		
	41:13 Q. Is there an additional way that molting can		
	41:14 be used to manage supply, other than that period		
	41:15 when there is zero production?		
	41:16 A. The average rate of lay would be about 10		
	41:17 percent less year in, year out.		
	41:18 And if we have 10 percent too many		
	41:19 chickens, that's one way of remedying that problem.		
	41:20 Q. So would it be fair to say that in times of		
	41:21 low margins in the egg industry, molting can make		
	41:22 economic sense?		
	41:23 A. Absolutely, yes, yes.		
42:02 - 42:17	Bell, Donald 2013-08-20	00:00:41	Bell_Final.43
	42:02 Q. Now, as far as other factors that affect		
	42:03 the size of national egg production, how about the		
	42:04 age of hens?		
	42:05 A. Yes.		
	42:06 Q. How does that affect the size of national		

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	42:07 egg production? 42:08 A. Well, the older the chickens, the fewer the 42:09 eggs. 42:10 And so if you do molt, you're going to 42:11 increase their average age by 30 or 40 weeks, which 42:12 is considerable. Or if you let your flocks go 42:13 without molting, you're going to keep them for a 42:14 longer period without molting, and so the same thing 42:15 is going to happen. 42:16 Q. And how about the use of exports, can that 42:17 have a large impact on national egg production?		
42:19 - 42:19	Bell, Donald 2013-08-20	00:00:02	Bell_Final.44
	42:19 THE WITNESS: Yes.		
43:25 - 44:22	Bell, Donald 2013-08-20	00:01:18	Bell_Final.45
	43:25 Now, based on your work in the egg 44:01 industry, you understood that the egg industry could 44:02 make more money with fewer birds, right? 44:03 A. Yes. 44:04 Q. That's something you mentioned before 44:05 today, right? 44:06 A. Yes. 44:07 Q. And that's a fact that you would stress to 44:08 UEP and its members? 44:09 A. Yes. 44:10 Q. Now, as part of your work for the egg 44:11 industry, did you also come to understand that 44:12 increasing floor space allowances could be difficult 44:13 for an individual producer on its own to justify? 44:14 A. Yes. 44:15 Q. Because if a producer just increases floor 44:16 space allowances on its own, that might reduce its 44:17 profits, right? 44:18 A. Reduces volume of production, yes. 44:19 Q. But did you also recognize that increasing 44:20 floor space allowances could be justified for a 44:21 producer if it knew that a significant number of 44:22 other producers were also going to do it?		
44:25 - 45:16	Bell, Donald 2013-08-20	00:01:01	Bell_Final.46
	44:25 THE WITNESS: First of all, if you take the 45:01 range of modifying your density from low to high,		

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	45:02 you can go too far on either end, too few or too 45:03 many. 45:04 My concern in evaluating this is what does 45:05 it return for dollar invested. And four birds in a 45:06 three-bird cage is too many, one or two birds is too 45:07 few. So the answer is yes and no. 45:08 To the individual, the industry is mainly 45:09 interested in modifying the total population, and 45:10 they have to have individual people to cooperate and 45:11 do that. 45:12 BY MR. OLSON: 45:13 Q. But I just want to focus on this problem of 45:14 increasing floor space allowances across the 45:15 industry. 45:16 A. Sure.		
50:16 - 50:22	Bell, Donald 2013-08-20	00:00:12	Bell_Final.47
	50:16 BY MR. OLSON: 50:17 Q. Do you recall making a recommendation that 50:18 UEP take a stronger stand on the issue of space 50:19 allowances? 50:20 A. Sure, yes. 50:21 Q. And what was the reason for that 50:22 recommendation?		
50:24 - 51:08	Bell, Donald 2013-08-20	00:00:46	Bell_Final.48
	50:24 THE WITNESS: Because I know that if we 50:25 reduce the number of birds in the United States, 51:01 that the egg producers in the United States will 51:02 have a more profitable relationship, set of results. 51:03 I've looked at costs and income and profits 51:04 for 55 years, and I've done studies every year for 51:05 55 years, so I feel like I have a feel for the 51:06 general health of this industry. And, therefore, I 51:07 think I'm entitled to use my experience to make 51:08 recommendations.		
58:23 - 59:14	Bell, Donald 2013-08-20	00:01:16	Bell_Final.49
	58:23 And if you allow 67 square inches -- are 58:24 you familiar with that number? 58:25 BY MR. OLSON: 59:01 Q. Yes. 59:02 A. And Don Bell says you should give them 72,		

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DESIGNATION	SOURCE	DURATION	ID
	59:03 you know there's -- or the other direction, that you 59:04 can affect it up or down, the results, because 59:05 Don Bell is not going to say that 72 is the number, 59:06 nor is the welfare committee or anything like that. 59:07 So I hope, in my discussions with UEP, that 59:08 the principles will be on the table and that we will 59:09 give an equal fairness to too many chickens or too 59:10 few chickens, because they are both involved. 59:11 Q. And would it be fair to say that you 59:12 recognized at some point that the primary way to 59:13 reduce nationwide chick hatch was through a 59:14 long-term cage space program?		
59:16 - 60:20	Bell, Donald 2013-08-20	00:01:44	Bell_Final.50
	59:16 THE WITNESS: Cage space program, is that 59:17 what you said? 59:18 Hatches hasn't even come into the 59:19 discussion yet, so you brought it in there. 59:20 BY MR. OLSON: 59:21 Q. Okay. Sorry. We're just talking about 59:22 nationwide egg production. 59:23 Would it be fair to say that, based on your 59:24 work, at a certain point you recognized that the 59:25 primary way the industry could manage nationwide egg 60:01 production was to use a long-term cage space 60:02 program? 60:03 A. That's one of the easiest ways, easiest to 60:04 demonstrate. 60:05 Q. Just to pause there, do you recall 60:06 approximately when you reached the conclusion that 60:07 that would be one of the easiest ways to accomplish 60:08 that goal? 60:09 A. Well, the question of optimum cage space, 60:10 one of the outcomes is it is going to change the 60:11 volume of eggs. And we've already discussed the 60:12 volume of egg relationship to egg price. 60:13 So the very first experiment I did in the 60:14 early '60s that showed a dramatic difference in egg 60:15 numbers, but from the same cage, that's the start of 60:16 a 55-year recommendation, and it still exists today. 60:17 Q. And was there a time when you concluded		

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DESIGNATION	SOURCE	DURATION	ID
	60:18 that in the United States an industry-wide program 60:19 involving cage space guidelines was the best way to 60:20 manage U.S. egg supply?		
60:22 - 61:06	Bell, Donald 2013-08-20	00:00:29	Bell_Final.51
	60:22 THE WITNESS: It would result -- it would 60:23 get results the fastest, it would be the easiest to 60:24 apply, but everyone wouldn't be in agreement with 60:25 it. 61:01 BY MR. OLSON: 61:02 Q. And were these concepts about that type of 61:03 approach being fast and easy to apply ones that you 61:04 discussed with UEP and its officials from time to 61:05 time? 61:06 A. Yes, uh-huh.		
62:04 - 63:12	Bell, Donald 2013-08-20	00:02:14	Bell_Final.52
	62:04 Q. Now, before the break, this concept 62:05 of chick hatch came up. Now, is one way to reduce 62:06 egg supply focusing on reducing chick hatch? 62:07 A. Yes. 62:08 Q. And what is -- generally speaking, what is 62:09 chick hatch reduction? 62:10 A. Chick hatch is adult chickens six months 62:11 pre, prior to the adult chicken. So it takes six 62:12 months to grow. So if you have an indication that 62:13 you have an increase in chick hatch, this is also an 62:14 indication you're going to have more adult chickens 62:15 six months later. 62:16 And so it was given a lot of attention in 62:17 earlier years, the direction of chick hatch, but 62:18 there are so many factors -- if a person is going 62:19 broke, he doesn't buy as many chicks, and that's the 62:20 same as the total volume, it's the whole industry. 62:21 If the industry is in trouble, they won't buy as 62:22 many chicks. They don't buy as many chicks, and 62:23 that's what gives us cycles. The cycle in the 62:24 industry is about five years, and that's why we talk 62:25 about five-year averages, because that's the period 63:01 of time when you have to consider all these issues. 63:02 Q. And was this a challenge in the industry, 63:03 how to try to address the cyclical nature of chick		

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DESIGNATION	SOURCE	DURATION	ID
	63:04 hatch and egg production? 63:05 A. It is a cyclical fact of life, and you 63:06 can -- I've got charts I've used in my speeches 63:07 where you can see a profitable industry, too many 63:08 chicks, too many adults, too many eggs, an 63:09 unprofitable industry and then back around. 63:10 And so this has got to be realized, because 63:11 it is a cyclic industry. You can't just look at one 63:12 year at a time and say it means anything.		
65:10 - 65:20	Bell, Donald 2013-08-20	00:00:21	Bell_Final.53
	65:10 Q. All right. Let's talk about the -- 65:11 actually, another issue came up before the break. 65:12 You were talking about cage sizes, and you mentioned 65:13 67 inches versus 72 inches. 65:14 A. Right. 65:15 Q. Now, you were a member of the Scientific 65:16 Advisory Committee, correct? 65:17 A. Yes. 65:18 Q. Why didn't the Scientific Advisory 65:19 Committee just insist on a minimum of 72 inches for 65:20 every hen?		
65:22 - 66:12	Bell, Donald 2013-08-20	00:00:51	Bell_Final.54
	65:22 THE WITNESS: The optimum numbers battered 65:23 around the industry worldwide and the United States 65:24 varies from 150 inches to 50 inches. So the 65:25 committee -- now we're talking about the industry 66:01 advisory committee, right? 66:02 BY MR. OLSON: 66:03 Q. We'll call it the Scientific Advisory 66:04 Committee -- 66:05 A. Scientific, that's fine. 66:06 Several people were assigned this question, 66:07 to take a look at the research. 66:08 Well, the research is just enormous on this 66:09 question. And all the answers aren't the same. 66:10 Q. But no one is really -- there's no 66:11 reputable research saying 50 inches is optimal for 66:12 the welfare of hens, is there?		
66:14 - 67:15	Bell, Donald 2013-08-20	00:01:31	Bell_Final.55
	66:14 THE WITNESS: I said economically optimal.		

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DESIGNATION	SOURCE	DURATION	ID
	66:15 BY MR. OLSON: 66:16 Q. Oh, economically optimal? Understood. 66:17 A. Most of the research went on pre humane 66:18 society, if you understand what I'm talking about. 66:19 All the research that went on before that had to do 66:20 with production efficiencies, economics, how many 66:21 eggs, you know, mortality, all those things. 66:22 The human society insisted that you needed 66:23 to bring in welfare issues, such as frustration, 66:24 peck order, a totally different ball game than I was 66:25 involved with. 67:01 We had measurable things. I don't know 67:02 whether you're frustrated right this moment or not, 67:03 you see, we're supposed to do that with the chicken. 67:04 I can't tell humans if they are frustrated or if 67:05 you're high on the peck order or low on the peck 67:06 order. But there is about 20 different behavioral 67:07 characteristics that the scientists who work in that 67:08 area are concerned about. 67:09 Well, on the advisory committee we had one 67:10 or two that had that background. I didn't have that 67:11 background. I didn't -- I was only interested in 67:12 egg numbers, egg size, mortality and what it all 67:13 meant economically. 67:14 Q. And is that why you were chosen for the 67:15 Scientific Advisory Committee, to your knowledge?		
67:17 - 68:19	Bell, Donald 2013-08-20	00:01:16	Bell_Final.56
	67:17 THE WITNESS: I was asked to be on the 67:18 committee by UEP. 67:19 BY MR. OLSON: 67:20 Q. By who at UEP? 67:21 A. Good question. Gene or Al, I'm not sure 67:22 which. The rest of the committee was appointed by 67:23 the appointed chair. 67:24 Q. And what do you recall about being asked by 67:25 UEP to be on the committee? 68:01 A. What do I recall? 68:02 Q. I mean, do you recall the conversation, do 68:03 you recall how it happened, do you recall anything 68:04 about it?		

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DESIGNATION	SOURCE	DURATION	ID
	<p>68:05 A. No. It's just a long-term relationship 68:06 with these people, all the way to the farmer, that 68:07 they endorsed me to be on the committee and they 68:08 wished me to be on the committee because of my 68:09 experience.</p> <p>68:10 Q. Your experience with economic issues?</p> <p>68:11 A. All issues, all the welfare issues, except 68:12 for these frustration issues, yeah.</p> <p>68:13 Q. That's what I want to understand.</p> <p>68:14 A. I mean, density, molting, beak trimming, 68:15 housing, all those issues.</p> <p>68:16 Q. If we talk about density, for example --</p> <p>68:17 A. Sure.</p> <p>68:18 Q. -- did you have experience on how density 68:19 would affect the welfare of the chicken?</p>		
68:22 - 69:08	Bell, Donald 2013-08-20	00:00:23	Bell_Final.57
	<p>68:22 THE WITNESS: It is what you include in the 68:23 welfare.</p> <p>68:24 As far as frustration is concerned, no. As 68:25 far as egg numbers are concerned, yes. As far as 69:01 mortality -- mortality is a welfare issue, and 69:02 mortality, yes.</p> <p>69:03 BY MR. OLSON:</p> <p>69:04 Q. Okay. So your experience with those types 69:05 of issues that you --</p> <p>69:06 A. Measurable issues.</p> <p>69:07 Q. Measurable and economic issues?</p> <p>69:08 A. Yes. Together, yes.</p>		
69:25 - 70:03	Bell, Donald 2013-08-20	00:00:10	Bell_Final.58
	<p>69:25 Q. Isn't the scientific consensus that for a 70:01 hen just to stretch out its wings it needs a minimum 70:02 of 72 inches? No?</p> <p>70:03 A. No.</p>		
70:21 - 71:20	Bell, Donald 2013-08-20	00:00:43	Bell_Final.59
🔗 272.1.3	<p>70:21 Q. Let me hand you what we marked Bell 3. 70:22 This was previously Gregory 6.</p> <p>70:23 A. Thank you.</p> <p>70:24 Q. It is a United Voices publication.</p> <p>70:25 Mr. Bell, did you receive United Voices 71:01 publications?</p>		

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DESIGNATION	SOURCE	DURATION	ID
	71:02 A. Yes.		
🔗 272.1.4	71:03 Q. All right. And this publication is dated		
	71:04 February 22nd, 1999.		
	71:05 Do you see that?		
	71:06 A. Yes.		
🔗 272.1.1	71:07 Q. And it refers to --		
	71:08 A. The first meetings.		
	71:09 Q. -- the first meeting, the February 12th and		
	71:10 13th?		
	71:11 A. Yes.		
	71:12 Q. Does that refresh your recollection about		
	71:13 when you started?		
	71:14 A. Yes.		
🔗 272.1.2	71:15 Q. Now, this has a list of the members of the		
	71:16 Scientific Advisory Committee on the right-hand		
	71:17 side --		
	71:18 A. Yes.		
	71:19 Q. -- do you see that?		
☒ Clear	71:20 A. Yes.		
73:08 - 74:07	Bell, Donald 2013-08-20	00:01:04	Bell_Final.60
	73:08 Q. So you served on that committee over		
	73:09 approximately early 1999 through July 2009, correct?		
	73:10 A. Sounds like ten years, right.		
	73:11 Q. About ten years.		
	73:12 During the period that you served on the		
	73:13 Scientific Advisory Committee, were you paid any		
	73:14 form of compensation by UEP?		
	73:15 A. I believe all I received was expenses to go		
	73:16 to the meetings, because I had no funds otherwise.		
	73:17 Q. Mr. Bell, isn't it the case that you were		
	73:18 paid by UEP --		
	73:19 A. Oh, I was on retainer, of course.		
	73:20 Q. That's what I want to talk about.		
	73:21 A. You didn't ask it that way.		
	73:22 Q. Oh, sorry.		
	73:23 So during this period -- during most of the		
	73:24 period you were on the Scientific Advisory		
	73:25 Committee, you were on retainer by UEP?		
	74:01 A. Yes.		
	74:02 Q. And as part of that retainer, you were paid		

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DESIGNATION	SOURCE	DURATION	ID
	74:03 approximately \$15,000 a year, correct? 74:04 A. Approximately, yes. 74:05 Q. Okay. And you received compensation to 74:06 attend Scientific Advisory Committee meetings as 74:07 well?		
74:10 - 74:21	Bell, Donald 2013-08-20	00:00:31	Bell_Final.61
	74:10 THE WITNESS: Expenses were the only 74:11 additional to my retainer fee. My retainer fee paid 74:12 for about two days of my time a month, and I gave 74:13 them a lot more than two days. 74:14 BY MR. OLSON: 74:15 Q. So when you say "expenses," you're 74:16 referring to things like travel expenses? 74:17 A. To get to Chicago, or wherever it was. 74:18 Q. As part of your work for UEP during that 74:19 period, you were -- did you also go on other trips 74:20 unrelated to the Scientific Advisory Committee? 74:21 A. Other trips?		
74:24 - 74:24	Bell, Donald 2013-08-20	00:00:01	Bell_Final.62
	74:24 THE WITNESS: About 400 of them.		
75:01 - 75:05	Bell, Donald 2013-08-20	00:00:10	Bell_Final.63
	75:01 Q. And UEP would compensate you for 75:02 those -- 75:03 A. No, no, no. The inviter would pay my 75:04 expenses to go to other meetings. That's the 75:05 question you asked.		
76:12 - 76:20	Bell, Donald 2013-08-20	00:00:17	Bell_Final.64
	76:12 Q. Now, let's talk about, particularly, the 76:13 early years of the committee. How often would the 76:14 committee meet, generally? 76:15 A. Oh, I don't think more than twice a year, 76:16 maybe. 76:17 Q. And would those be in-person meetings? 76:18 A. In person? 76:19 Q. Yes. 76:20 A. Always.		
78:05 - 78:06	Bell, Donald 2013-08-20	00:00:04	Bell_Final.65
	78:05 Q. Would a representative from UEP attend the 78:06 meetings?		

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DESIGNATION	SOURCE	DURATION	ID
78:08 - 78:14	Bell, Donald 2013-08-20	00:00:12	Bell_Final.66
	78:08 THE WITNESS: Most or all.		
	78:09 BY MR. OLSON:		
	78:10 Q. Was that Gene Gregory?		
	78:11 A. Most or all.		
	78:12 Q. Did you have an understanding of why		
	78:13 Mr. Gregory attended the Scientific Advisory		
	78:14 Committee meetings?		
78:17 - 78:24	Bell, Donald 2013-08-20	00:00:25	Bell_Final.67
	78:17 THE WITNESS: Yes.		
	78:18 BY MR. OLSON:		
	78:19 Q. What was your understanding?		
	78:20 A. Wanted to see how we were progressing on a		
	78:21 multitude of topics. Not just animal welfare, per		
	78:22 se, not just the cage density, per se, but the total		
	78:23 assignment of recommending the ways we handle our		
	78:24 chickens.		
78:25 - 79:07	Bell, Donald 2013-08-20	00:00:30	Bell_Final.68
	78:25 Q. And would Mr. Gregory participate in the		
	79:01 discussion of -- that occurred at these meetings?		
	79:02 A. I think he took a pretty low key -- he		
	79:03 didn't want to interfere with what we said, or he		
	79:04 certainly wouldn't tell us what to say. We were a		
	79:05 bunch of people who each had 20, 30, 40 years of		
	79:06 experience doing research and communications and so		
	79:07 on, and I think he took a back seat.		
79:17 - 80:01	Bell, Donald 2013-08-20	00:00:37	Bell_Final.69
	79:17 Q. And would he share those views from time to		
	79:18 time at the meetings?		
	79:19 A. With the committee?		
	79:20 Q. Yes.		
	79:21 A. He might report back to us that the UEP		
	79:22 board of directors or their Animal Welfare Committee		
	79:23 thinks you're being too hard on your recommendations		
	79:24 or that you haven't discussed this part of the		
	79:25 recommendation. Sure, he would have comments, but		
	80:01 that wasn't -- that wasn't the big feature.		
80:02 - 80:09	Bell, Donald 2013-08-20	00:00:16	Bell_Final.70
	80:02 Q. Now, as part of your work on the Scientific		

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DESIGNATION	SOURCE	DURATION	ID
	80:03 Advisory Committee, did you believe it was important 80:04 to be practical and realistic about the changes egg 80:05 producers were asked to make? 80:06 A. I'm always that way, yes. 80:07 Q. And you were that way on the committee as 80:08 well? 80:09 A. Yes.		
80:10 - 80:14	Bell, Donald 2013-08-20	00:00:11	Bell_Final.71
	80:10 Q. Did you believe, as part of your work on 80:11 that committee, that it was important to consider 80:12 how any changes would impact the profitability of 80:13 the industry? 80:14 A. Absolutely, yes.		
92:05 - 92:06	Bell, Donald 2013-08-20	00:00:03	Bell_Final.72
🔗 260.1.6	92:05 Q. All right. Let me hand you what we marked 92:06 Bell 6.		
92:07 - 92:14	Bell, Donald 2013-08-20	00:00:19	Bell_Final.73
🔗 260.1.7	92:07 So I'm really just focused on the first 92:08 page. I'll identify this as a document -- 92:09 A. Which one is the first page? It says June 92:10 29th? 92:11 Q. No, the July 1, 1999. 92:12 A. That's the second one. 92:13 Q. It is Bates-stamped BELL-D-00026787 through 92:14 -88.		
92:15 - 93:11	Bell, Donald 2013-08-20	00:00:53	Bell_Final.74
🔗 260.1	92:15 A. Okay. 92:16 Q. Mr. Bell, can you identify this as a fax 92:17 correspondence you received from Gene Gregory on 92:18 July 1, 1999? 92:19 A. Yes, that's one that I received, yes.		
🔗 260.1.2	92:20 Q. And it refers to an emergency meeting of		
🔗 260.1.3	92:21 UEP's marketing committee. 92:22 Do you see that?		
🔗 260.1.2	92:23 A. Yes, I see that. 92:24 Q. From time to time did you attend meetings 92:25 of UEP's marketing committee?		
🔗 260.1.5	93:01 A. I can't recall. 93:02 Q. Mr. Gregory asks, in connection with that		

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DESIGNATION	SOURCE	DURATION	ID
	93:03 upcoming meeting, that you and Mr. Schrader prepare 93:04 something for UEP. 93:05 Do you see that? 93:06 A. Yes. 93:07 Q. And he describes it as a 12-month supply 93:08 plan to meet the market needs that provides a 93:09 reasonable return on investment. 93:10 Do you see that? ☒ Clear 93:11 A. Yes, uh-huh.		
94:01 - 94:02	Bell, Donald 2013-08-20	00:00:03	Bell_Final.75
🔗 328.1.2	94:01 Q. All right. Well, let me hand you what we 94:02 marked Bell 7.		
94:03 - 94:22	Bell, Donald 2013-08-20	00:00:44	Bell_Final.76
🔗 328.1.1	94:03 A. Okay. 94:04 That's from me. 94:05 Q. And you see it is dated the next day? 94:06 A. That's a pretty good response, isn't it? 94:07 Q. It's fast work. 94:08 So let me identify this for the record as 94:09 Bates stamp BELL007698 through -7709. 94:10 A. These are right out of my regular 94:11 newsletter. 94:12 Q. Okay. Well, first, can you just identify 94:13 this document as one that you sent to -- 94:14 A. Yes. 94:15 Q. -- Mr. Gregory on July 2nd, 1999, right? 94:16 A. Yes. 94:17 Q. And at the beginning you have some tables, 94:18 and those are the ones you're saying are right out 94:19 of your newsletter? 94:20 A. Yes. 94:21 Q. And if you keep paging through and get 94:22 through --		
94:23 - 96:12	Bell, Donald 2013-08-20	00:01:22	Bell_Final.77
🔗 328.11	94:23 A. The last page? 94:24 Q. -- the second-to-the-last page -- 94:25 A. Right.		
🔗 328.11.6	95:01 Q. -- it is titled, "Estimated Break-even 95:02 Beginning Hen Inventory for 1999" -- 95:03 A. Yes.		

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DESIGNATION	SOURCE	DURATION	ID
	95:04 Q. -- "to 2000 for Break-even or Better 95:05 Situation." 95:06 Do you see that? 95:07 A. Yes. 95:08 Q. Have you reviewed this page? 95:09 A. No, I haven't read it, but it's, obviously, 95:10 an editorial add-on to the statistics pages. 95:11 Q. Okay. 95:12 A. So he asked us for the statistics and the 95:13 plan, and I sent him what was immediately available, 95:14 and in one day that is pretty fast. And the rest of 95:15 it I sat down at probably 3:00 in the morning and 95:16 typed out my editorial about that. 95:17 Q. Okay. 95:18 A. And I haven't read it in years, so I don't 95:19 know -- 95:20 Q. All right. Let's look at that page. 95:21 A. Okay. Go ahead. 95:22 Q. You're talking about how to achieve a 95:23 break-even or better situation? 95:24 A. Uh-huh. 95:25 Q. So that means either break even or make 96:01 some profits, right? 96:02 A. That's what it says, yeah. 96:03 Q. Okay. If you look at the opening sentences 96:04 do you see where you say, "Correction in the size of 96:05 the nation's layer flock can be obtained by one of 96:06 several ways"? 96:07 A. Yes. 96:08 Q. And then under that you give four different 96:09 ways that the egg industry can correct the size of 96:10 its flock, right? 96:11 A. I have to read that. 96:12 Q. Please do. Let me know when you're done.		
⌚ 328.11.8	96:13 - 97:13 Bell, Donald 2013-08-20	00:00:59	Bell_Final.78
	96:13 A. Yeah, I read the four of them, yes. 96:14 Q. So you're giving four ways of correcting 96:15 the size of the nation's -- four ideas? 96:16 A. Right. 96:17 Q. And what's going on here is the industry is		

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DESIGNATION	SOURCE	DURATION	ID
	96:18 facing extremely low egg prices --		
	96:19 A. I assume so.		
	96:20 Q. Well, in fact, you say that, right?		
	96:21 A. Okay. I said it, that's fine.		
🔗 328.11.3	96:22 Q. "Extremely low egg prices," so your idea is		
	96:23 to change supply to correct that problem, right?		
	96:24 A. Yes.		
🔗 328.11.4	96:25 Q. Just looking at number 2, it says, "Extra		
	97:01 birds must be removed from the nation's flock		
	97:02 permanently."		
	97:03 A. Yes.		
	97:04 Q. What were you referring to there?		
	97:05 A. Surplus birds, over demand.		
	97:06 Q. Do what with surplus birds?		
	97:07 A. Get rid of them.		
	97:08 Q. How do you do them?		
	97:09 A. Kill them.		
	97:10 Q. Mr. Bell, do you find any irony in the fact		
	97:11 that while you were a member of the Scientific		
	97:12 Advisory Committee you were recommending just		
	97:13 disposing of hens?		
97:16 - 101:20	Bell, Donald 2013-08-20	00:05:23	Bell_Final.79
	97:16 THE WITNESS: No, I have never been able to		
	97:17 separate my brain into 20 percent and 80 percent, so		
	97:18 I'm me. And you get the whole thing. I'm either on		
	97:19 the committee or my day-by-day life. Since I'm paid		
	97:20 for two days of my time, I think I have 20 other		
	97:21 days that I can do whatever I want and think		
	97:22 whatever I want, write whatever I want, communicate.		
	97:23 Okay? So, no, I don't -- I think this is totally		
	97:24 within my realm.		
	97:25 BY MR. OLSON:		
🔗 328.11.5	98:01 Q. Number 4 refers to an industry-wide policy		
	98:02 of a minimum floor space allowance that would result		
	98:03 in a more ideal national flock size?		
	98:04 A. Right.		
	98:05 Q. And that was a suggestion that you were		
	98:06 making at this time for UEP?		
	98:07 A. Yeah.		
	98:08 Q. And, in fact, UEP ended up adopting that?		

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DESIGNATION	SOURCE	DURATION	ID
	98:09 A. No. The 48 inches at that time was what 15 98:10 to 20 percent of the birds were kept, at less than 98:11 48 inches.		
🔗 328.11.7	98:12 So I suggested here that if 48 were adopted 98:13 as the minimum space allowance, but you know what 98:14 happened is it became 67 eventually. 98:15 Q. It became a higher number? 98:16 A. Yeah. 98:17 Q. Right. 98:18 A. And I've recommended early stages 72. 72 98:19 square inches -- early stages of a recommendation, 98:20 but those recommendations change. 98:21 Q. But putting the specific numbers aside, the 98:22 gist of the recommendation here was to adopt a 98:23 minimum floor space allowance to help the 98:24 profitability of the industry? 98:25 A. Of course, yes. 99:01 Q. And the suggestion, as it's laid out here, 99:02 doesn't relate to animal welfare, right? 99:03 A. I wouldn't say that. 99:04 Q. Well, here there is no -- it's not being 99:05 suggested -- 99:06 A. The word isn't used in there, not being 99:07 used in the text. 99:08 Q. The outcome of this suggestion is an 99:09 economic one? 99:10 A. That's what causes the suggestion, is that 99:11 the -- my experience with cage density shows that 99:12 that's an extreme that we shouldn't recommend.		
🔗 328.12.3	99:13 Q. Now, if you turn to the next page, this one 99:14 is entitled, "A Twelve Month Supply Plan to Meet the 99:15 Market Needs that Provides a Reasonable Return on 99:16 Investment." 99:17 Do you see that? 99:18 A. Yes. 99:19 Q. And that's specifically what Mr. Gregory 99:20 asked you to prepare, correct? 99:21 A. That's part of the request, yes. 99:22 Q. Do you recall other times that Mr. Gregory, 99:23 or others in UEP, requested you propose plans for 99:24 managing egg output?		

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DESIGNATION	SOURCE	DURATION	ID
	99:25 A. I would say frequently, because that was a 100:01 major issue, was that we have too many chickens. So 100:02 that's always going to be a question, that's always 100:03 going to be a target.		
🔗 328.12.4	100:04 Q. And in this one, again, you suggest that 100:05 molting should be included as part of a national 100:06 program, because that results in a lower level of 100:07 egg production, right?		
	100:08 A. Yes, of course. Yes.		
☒ Clear	100:09 Q. Now, you talked about UEP making efforts to 100:10 persuade its members -- 100:11 A. Uh-huh. 100:12 Q. -- and identified the newsletters 100:13 Mr. Gregory edited? 100:14 A. Uh-huh. 100:15 Q. Beyond the newsletters, to your knowledge, 100:16 what other types of efforts did UEP make to persuade 100:17 its members to manage egg supply? 100:18 A. Well, all of their programs are voluntary, 100:19 so I'm not just sure where voluntary comes into 100:20 persuasion. 100:21 You know, whether you reduce your bird 100:22 numbers, that was a voluntary decision on each 100:23 person's part. 100:24 Q. Were you ever at UEP meetings where members 100:25 were asked to sign commitment forms about following 101:01 programs, to your knowledge, to your recollection? 101:02 A. I don't recall it personally. Of course, 101:03 the progress of having people participate was 101:04 reported in their newsletters, that we now have 101:05 50 percent, we now have 70 percent, we now have 101:06 90 percent. And those -- that's all anybody really 101:07 needs to know. 101:08 Q. Why do you say that? 101:09 A. Because the rest of it is confidential 101:10 company information. I don't want you to know that 101:11 I'm participating or not participating. 101:12 Q. By name? 101:13 A. By name. 101:14 Q. But it's helpful to know that others are 101:15 participating?		

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DESIGNATION	SOURCE	DURATION	ID
	101:16 A. And that's where the 70 percent comes in, 101:17 the 80 percent comes in, yeah. 101:18 Q. And why is it helpful for an individual 101:19 producer to know that 70 percent or 80 percent of 101:20 others are participating?		
101:23 - 102:17	Bell, Donald 2013-08-20	00:01:08	Bell_Final.80
	101:23 THE WITNESS: You said that earlier. You 101:24 want to know you're in step. You want to know this 101:25 has a good chance of working. It starts out in 102:01 somebody's mind, and they put it down on paper and 102:02 they have a committee and eventually you get a -- 102:03 what do you call it? -- 102:04 BY MR. OLSON: 102:05 Q. Program? 102:06 A. No. 102:07 Q. Proposal? 102:08 A. Where everybody votes -- referendum. 102:09 You eventually have a referendum and you 102:10 may do a national referendum on some law, and laws 102:11 have been thrown out added to a national referendum. 102:12 But you don't want to put yourself out 102:13 there without having some idea what the industry is 102:14 doing as a whole. And I think that kind of a 102:15 progress that we now have 50, we now have 70, that's 102:16 enough to encourage people to say, well, I guess I 102:17 should get on board too.		
105:01 - 106:24	Bell, Donald 2013-08-20	00:02:18	Bell_Final.81
🔗 1.1.2	105:01 Q. All right. Now I've handed you what we've 105:02 marked Gregory 8 -- Bell 8. Sorry. 105:03 A. Which one are we looking at? Molting? 105:04 Q. This is a UEP publication. Let me read the 105:05 Bates number into the record. 105:06 It is UE0064456 through -64459. It was 105:07 Gregory Exhibit 11. That's why I have Gregory on 105:08 the brain. 105:09 All right. Let me just first ask if you 105:10 can identify this as United Voices -- 105:11 A. That's their regular every two weeks, I 105:12 believe it is. 105:13 Q. And you received these generally, correct?		

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DESIGNATION	SOURCE	DURATION	ID
	105:14 A. I keep about half of them, throw half of 105:15 them away. 105:16 Q. All right. So if you look at beginning at 105:17 the bottom right of the second page there is a part 105:18 that said, "Roller Coaster Egg Price Quotes," and 105:19 maybe if you could just skim that -- 105:20 A. Okay. 105:21 Q. -- and skim page 3. 105:22 A. Who wrote it? 105:23 Q. Well, I believe this is Mr. Gregory. 105:24 A. Him. Okay. Boy, that's a terrible -- 105:25 there it is over there, market outlook. 106:01 Do I have to read the whole thing? 106:02 Q. If you just skim it. 106:03 A. Okay. Go ahead. 106:04 Q. Just the question is can you see that -- if 106:05 you look at the top right of page 3, Mr. Gregory 106:06 says, "You will also be asked if you would 106:07 participate in a supply adjustment program." 106:08 Do you see where it says that? 106:09 A. Yes, I see that. 106:10 Q. And then underneath do you see where 106:11 Mr. Gregory has reproduced the suggestions you made 106:12 about the corrections in the nation's flock size? 106:13 A. Yes. 106:14 Q. And it has those four including the 106:15 industry-wide policy of a -- 106:16 A. Is this shortly after those other letters? 106:17 Q. It is the next month. 106:18 A. The next month. Okay. Go ahead. 106:19 Q. And it includes this one about the minimum 106:20 floor space allowance. 106:21 A. Uh-huh. 106:22 Q. Now, based on your knowledge of the 106:23 industry, do you have an understanding of who would 106:24 have received this type of document?		
107:01 - 107:18	Bell, Donald 2013-08-20	00:00:33	Bell_Final.82
	107:01 THE WITNESS: Are those four points the 107:02 same exact points that I had in my letter? 107:03 BY MR. OLSON:		

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DESIGNATION	SOURCE	DURATION	ID
	107:04 Q. Right. 107:05 A. Okay. Part of my editorial? 107:06 Q. Right. 107:07 A. Okay. 107:08 Q. So this is just a background question. I 107:09 mean, I take it you're aware that this United Voices 107:10 was sent to UEP members and even others? 107:11 A. Well, it's sent to their entire membership 107:12 list, to my knowledge, and I don't remember this 107:13 being a response to my earlier letter. I don't read 107:14 some of these things -- 107:15 Q. So you don't recall seeing this at the 107:16 time? 107:17 A. I don't recall, but it is right out of 107:18 here, so it's okay.		
108:05 - 108:05	Bell, Donald 2013-08-20	00:00:03	Bell_Final.83
🔗 256.1.7	108:05 Q. Let me hand you what we've marked Bell 9.		
108:06 - 108:07	Bell, Donald 2013-08-20	00:00:16	Bell_Final.84
	108:06 Why don't you briefly review this, please. 108:07 It is Bates-stamped BELL004041 through -42.		
108:19 - 108:25	Bell, Donald 2013-08-20	00:00:16	Bell_Final.85
🔗 256.1.7	108:19 Q. Mr. Bell, can you identify Exhibit 9 as an 108:20 e-mail you wrote to what you were calling the Animal 108:21 Welfare Committee on December 22nd, 1999? 108:22 A. Yes, I do.		
🔗 256.1	108:23 Q. This is what we called today the Scientific 108:24 Advisory Committee? 108:25 A. Yes.		
109:03 - 111:07	Bell, Donald 2013-08-20	00:02:40	Bell_Final.86
	109:03 Q. And what you discuss in this e-mail is the 109:04 issue of cage space and how much cage space the 109:05 committee should recommend generally, correct? 109:06 A. Yes. 109:07 Q. And you begin that discussion by saying, 109:08 "Even though the subject is mainly one on selecting 109:09 cage density based on current economic parameters," 109:10 and you go on. 109:11 What were you referring to when you say, 109:12 "based on current economic parameters"?		

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DESIGNATION	SOURCE	DURATION	ID
	109:13 A. I think we probably were looking at 109:14 averages, which vary from year to year, as opposed 109:15 to a set of recommendations which would be over a 109:16 long time period. So I think that's probably the 109:17 emphasis there.		
	109:18 Q. But what economic parameters was the 109:19 committee considering in this regard?		
	109:20 A. That -- the committee, at that time, in 109:21 early sitting of the committee, would probably have 109:22 placed most of its emphasis on egg production and 109:23 mortality, and not until they were pressured into 109:24 welfare-type issues much later by the humane 109:25 society.		
	110:01 So I would assume that "current economic 110:02 parameters" means the cost of production and the 110:03 price of eggs.		
	110:04 Q. And one of the points you make here is that 110:05 in putting together the guidelines, the committee 110:06 needs to recognize that the egg producer is in 110:07 business to make a living, right?		
🔗 256.1.4	110:08 A. Yes.		
	110:09 Q. And the Scientific Advisory Committee needs 110:10 to think about investments, cost, performance and 110:11 profits, and consider all those things in the 110:12 program that was going to be adopted, right?		
	110:13 A. I'm not finding your keywords.		
	110:14 Q. Oh, sorry. If you look at point 2.		
	110:15 A. Point 2 down here. Okay. Yes, I see it.		
	110:16 Okay.		
	110:17 Q. Point 2 and 3, what you're saying is when 110:18 the committee makes its recommendations, it needs to 110:19 consider that the egg producer is in business to 110:20 make a living and it needs to consider investments, 110:21 cost, performance and profits, right?		
	110:22 A. I guess there is a word -- "consider" or 110:23 "consideration" might need to be explained, but 110:24 that's what I wrote, so that's what they got.		
	110:25 "Consider" means one of many things that you have to 111:01 consider.		
	111:02 Q. Okay. But these are things that needed to 111:03 be considered --		

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DESIGNATION	SOURCE	DURATION	ID
🔗 256.1	<p>111:04 A. Exactly.</p> <p>111:05 Q. -- in your view?</p> <p>111:06 And the committee did consider those</p> <p>111:07 things?</p>		
111:09 - 113:11	Bell, Donald 2013-08-20	00:02:45	Bell_Final.87
	<p>111:09 THE WITNESS: Among the welfare issues that</p> <p>111:10 we're primarily concerned with. The economics would</p> <p>111:11 be more important to me, probably, because, as I</p> <p>111:12 said, as a main reason people change is economic</p> <p>111:13 reasons. That's why they change anything, and we</p> <p>111:14 are talking about change here.</p> <p>111:15 BY MR. OLSON:</p> <p>111:16 Q. And one of the points you make here in that</p>		
🔗 256.1.5	<p>111:17 regard is you thought an unrealistically high</p> <p>111:18 recommendation would fail to persuade anyone, right?</p> <p>111:19 A. Where did you read that now?</p> <p>111:20 Q. The third full paragraph.</p> <p>111:21 A. The third full paragraph.</p>		
🔗 256.1.6	<p>111:22 Q. Do you see where you say, "I'm also</p> <p>111:23 concerned that an unrealistically high</p> <p>111:24 recommendation would fail to persuade anyone"?</p> <p>111:25 A. You're in the second part of that? Where</p> <p>112:01 are you in the third one? I can't see it in the</p> <p>112:02 third paragraph.</p> <p>112:03 Q. Do you see the paragraph that says, "I am</p> <p>112:04 primarily concerned"?</p> <p>112:05 A. Yes, okay.</p> <p>112:06 Q. The third sentence there.</p> <p>112:07 A. Oh, third sentence, you said "third</p> <p>112:08 paragraph."</p> <p>112:09 Q. It is the third sentence in the third</p> <p>112:10 paragraph.</p> <p>112:11 A. "I am also concerned." Okay. I was</p> <p>112:12 reading down here, number 3.</p> <p>112:13 Q. Do you see that?</p> <p>112:14 A. That's saying that if you allowed an acre</p> <p>112:15 of land for each chicken, that you wouldn't persuade</p> <p>112:16 anybody to make any changes, because you've given</p> <p>112:17 them way more than is required to satisfy the</p> <p>112:18 welfare.</p>		

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DESIGNATION	SOURCE	DURATION	ID
	<p>112:19 Q. And, in fact, has this document refreshed 112:20 your recollection that at this time some on the 112:21 committee were thinking that 72 inches was the right 112:22 number?</p> <p>112:23 A. Yes. 72 inches is sort of a magic number. 112:24 Because of the size of cages that were present at 112:25 the time, you divide the total space of the cage by 113:01 1, 2, 3 or 4, or some other number, and 72 comes out 113:02 a good, usable number.</p> <p>113:03 Q. And you make the point on the second page 🔗 256.2.1 113:04 of this that you were against 72 square inches as a 113:05 number because it could not be economically 113:06 justified, right?</p> <p>113:07 A. Yes. And it also goes back to the question 113:08 of a standard for everybody, 72 inches for you might 113:09 be the right number, for me it is the wrong number. 113:10 So we have methods of analyzing the issue for you 113:11 and for me separately.</p>		
113:12 - 113:19	Bell, Donald 2013-08-20	00:00:20	Bell_Final.88
	<p>113:12 And if we want to use something for the 113:13 entire industry, well, then, we'll develop a set of 113:14 parameters, and we'll say that that's too much or 113:15 that's too little.</p> <p>113:16 Q. And you thought in coming up with the 113:17 parameters, the committee had to consider practical 113:18 issues and be realistic, right?</p> <p>113:19 A. Absolutely, yes.</p>		
113:20 - 114:01	Bell, Donald 2013-08-20	00:00:19	Bell_Final.89
<input checked="" type="checkbox"/> Clear	<p>113:20 Q. And not recommend practices that weren't 113:21 economically justified?</p> <p>113:22 A. Especially in the next paragraph where it 113:23 says such as Economic Union of Europe to just copy 113:24 what they do verbatim and thinking that's going to 113:25 apply to the United States. That's a very important 114:01 statement.</p>		
114:02 - 114:04	Bell, Donald 2013-08-20	00:00:13	Bell_Final.90
	<p>114:02 And that's what we've done, we've adopted 114:03 some of their technology and management from Europe 114:04 word for word, and it's not for the United States.</p>		

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DESIGNATION	SOURCE	DURATION	ID
116:18 - 117:07	Bell, Donald 2013-08-20	00:01:06	Bell_Final.91
🔗 245.1.1	116:18 Q. Now let me hand you what's been marked Bell 116:19 11. 116:20 A. Thank you. Okay. 116:21 Q. This is a document entitled,		
🔗 245.1	116:22 "Recommendations for UEP Animal Welfare Guidelines," 116:23 dated September 2000, Bates-stamped UE0208684 116:24 through -208703. 116:25 And can you generally identify this 117:01 document for us, Mr. Bell? 117:02 A. Well, it appears to be a set of guidelines 117:03 that the advisory committee gave to UEP, but I don't 117:04 know whether it was a final copy of this particular 117:05 document or whether it was -- the fact that it says 117:06 "confidential" at the bottom makes me think it was 117:07 an in-progress report.		
117:15 - 118:04	Bell, Donald 2013-08-20	00:00:33	Bell_Final.92
	117:15 Q. Let's just look at a couple -- but, 117:16 in any case, this document, to the extent it was the 117:17 final one, would have been the initial set of 117:18 recommendations? 117:19 A. It follows our first meeting in 1999, 117:20 right. 117:21 Q. Right. 117:22 A. So it would be -- I'm sure this is the 117:23 first document, quote unquote. 117:24 Q. That that was the official recommendations 117:25 of the Scientific Advisory Committee? 118:01 A. But I don't know how far this goes. Has 118:02 UEP accepted this at this point? 118:03 Q. Well, I can't answer that one for you. 118:04 A. Okay.		
119:24 - 120:10	Bell, Donald 2013-08-20	00:00:32	Bell_Final.93
🔗 245.8	119:24 All right. If we look at the next heading, 119:25 this is the one that says, "Housing, Space 120:01 Allowances, and Environment." 120:02 A. On the page -- there we go. 120:03 Q. Do you see that heading? 120:04 A. Got it. 120:05 Q. Now, I take it, Mr. Bell, that with regard		

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DESIGNATION	SOURCE	DURATION	ID
	120:06 to housing, cage space density wasn't the only issue 120:07 the scientific committee thought was important? 120:08 A. I would hope not. 120:09 Q. The committee also thought feeder space was 120:10 important, right?		
120:12 - 121:06	Bell, Donald 2013-08-20	00:00:45	Bell_Final.94
	120:12 THE WITNESS: I personally did, because I 120:13 was -- I was one of the first ones to do work with 120:14 feeder space, and we demonstrated up to 6 inches. 120:15 But if you look at the final part of this thing, I'm 120:16 not sure whether we wound up with 4 inches or we 120:17 wound up with enough space for all the birds to eat 120:18 at the same time. 120:19 BY MR. OLSON: 120:20 Q. If you look -- go ahead and page towards 🔗 245.10.1 120:21 the recommendations, "Housing Recommendations For 120:22 Caged Hens for the UEP Guidelines"? 120:23 A. Where are we? Conclusion, or what? 120:24 "Housing Recommendations" -- go ahead.		
🔗 245.10.2	120:25 Q. If you look at point 4 -- 121:01 A. Go ahead. 121:02 Q. What does point 4 indicate about the 121:03 consensus of the Scientific Advisory Committee? 121:04 A. Well, it says 4 inches. 121:05 Q. Minimum 4 inches per bird? 121:06 A. Yes....		
122:05 - 122:11	Bell, Donald 2013-08-20	00:00:19	Bell_Final.95
☒ Clear	122:05 Q. And then you all signed off on the final? 122:06 A. We all signed off on the final. I don't 122:07 think we were antagonistic about anything at that 122:08 point. 122:09 Q. And would it be fair to say that the 122:10 consensus of the advisory committee is that feeder 122:11 space was a critical element affecting welfare?		
122:14 - 122:19	Bell, Donald 2013-08-20	00:00:32	Bell_Final.96
	122:14 THE WITNESS: The committee, I don't think, 122:15 was as firm as I was. Remember, we had -- worldwide 122:16 we had over 50 million chickens working on the 122:17 feeder space part of that. And they bought and 122:18 built all over the world. And up to that point, up		

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DESIGNATION	SOURCE	DURATION	ID
	122:19 to that point, 4 inches was kind of the exception.		
125:24 - 127:07	Bell, Donald 2013-08-20	00:01:55	Bell_Final.97
	125:24 Q. How would you describe it, the importance		
	125:25 of feeder space?		
	126:01 A. First of all, you have dominant birds		
	126:02 picking over the food and taking out the -- mostly		
	126:03 the grain, which is like dessert, you know, they		
	126:04 prefer that. And that's where the carbohydrate --		
	126:05 that's where the energy is.		
	126:06 So you are starting to imbalance the diet		
	126:07 by limiting the feeder space.		
	126:08 Pictures that we drew about the original		
	126:09 cage space issue is that maybe three birds would be		
	126:10 at the feed trough and one bird would have to stand		
	126:11 in the back.		
	126:12 And when you change the bird numbers, you		
	126:13 change about four things. You change the colony		
	126:14 size, you change the feeder space, you change the		
	126:15 amount of water -- watering per bird.		
	126:16 So to separate the feeder space from the		
	126:17 floor space, that's a difficult exercise, to		
	126:18 separate which is most important. All the eggs that		
	126:19 you lose are feeder space, all the eggs you lose are		
	126:20 floor space, it is very difficult.		
	126:21 We developed formulas in our research where		
	126:22 you could assign numbers to each element, because we		
	126:23 had all kinds of cases. You go out in the field and		
	126:24 the farmer doesn't have a clue.		
	126:25 Q. Now, as far as the floor space aspect, the		
🔗 245.9.1	127:01 first bullet here indicates that the conclusion of		
	127:02 the research, and it says, "Numerous studies" --		
	127:03 A. Go ahead.		
	127:04 Q. -- "have shown that decreasing space		
	127:05 allowances in cages to below approximately 72 square		
	127:06 inches per hen significantly reduces henhouse egg		
	127:07 production and increases mortality," right?		
127:10 - 127:11	Bell, Donald 2013-08-20	00:00:04	Bell_Final.98
	127:10 THE WITNESS: Yes. That's an open-ended		
	127:11 amount of space.		
128:23 - 130:03	Bell, Donald 2013-08-20	00:01:26	Bell_Final.99

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DESIGNATION	SOURCE	DURATION	ID
🔗 245.9.2	<p>128:23 Q. And if you look at the fourth bullet here, the committee says, "Measurements of white leghorn hens show that they require about 65 to 83 square inches to perform even the most basic behaviors, standing comfortably and resting, and more room is required to perform other" --</p> <p>129:04 A. Yeah.</p> <p>129:05 Q. Was that consistent with your research too?</p> <p>129:06 A. Well, we didn't look at the wing flapping, you know, we didn't look at behavioral things. We did practical research that the farmer could duplicate.</p> <p>129:10 And he can count eggs and he can weigh the eggs and he can weigh the chickens and he can look at the mortality, but he can't sit out there with a</p> <p>129:13 TV camera determining how many flaps per hour the chickens wave their wings. That's got to be done in</p> <p>129:15 a laboratory.</p>		Bell_Final.99
🔗 245.15.1	<p>129:16 Q. All right. One more quick question on this document. If you turn to the molting section --</p> <p>129:18 A. Got it.</p> <p>129:19 Q. -- and I'm looking at the recommendation part, the document ends in -98. It says, "Molting Recommendations for UEP Guidelines."</p> <p>129:22 A. Yeah.</p> <p>129:23 Q. Basically the committee concluded that there were animal welfare concerns with molting through forced starvation, right?</p> <p>130:01 A. Feed withdrawal.</p> <p>130:02 Q. And that that feed withdrawal raised genuine animal welfare concerns; is that fair?</p>		
130:05 - 130:16	Bell, Donald 2013-08-20	00:00:19	Bell_Final.100
	<p>130:05 THE WITNESS: Say that again.</p> <p>130:06 BY MR. OLSON:</p> <p>130:07 Q. The committee concluded that the feed withdrawal raised animal welfare concerns?</p> <p>130:09 A. Yes.</p> <p>130:10 Q. And encouraged producers and researchers to</p> <p>130:11 develop alternatives?</p> <p>130:12 A. Yes.</p>		

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DESIGNATION	SOURCE	DURATION	ID
	130:13 Q. And recommended that in the meantime the 130:14 shortest period of feed withdrawal period should be 130:15 used? 130:16 A. Yes.		
133:18 - 133:19	Bell, Donald 2013-08-20	00:00:06	Bell_Final.101
🔗 240.1.2	133:18 Q. Let me hand you what's marked Bell 133:19 Exhibit 13 very briefly.		
133:20 - 133:21	Bell, Donald 2013-08-20	00:00:08	Bell_Final.102
🔗 240.1.1	133:20 This is Bates-stamped UE0790540 through 133:21 -542.		
133:22 - 133:25	Bell, Donald 2013-08-20	00:00:12	Bell_Final.103
🔗 240.1.1	133:22 I'll just ask if you can identify this as 133:23 the executed financial consulting agreement between 133:24 you and UEP? 133:25 A. Yes, it is.		
135:12 - 135:13	Bell, Donald 2013-08-20	00:00:03	Bell_Final.104
🔗 385.1.1	135:12 Q. Let me hand you what we've marked as Bell 135:13 14.		
135:17 - 136:02	Bell, Donald 2013-08-20	00:00:27	Bell_Final.105
🔗 385.1.2	135:17 And I'll ask if you can identify this as an 135:18 Egg Economics Update dated December 31, 2000 that 135:19 you authored? 135:20 A. Yes, yes. 135:21 Q. Okay. And you recall this particular 135:22 update? 135:23 A. Yes.		
🔗 385.1.3	135:24 Q. And what it addresses is the economic 135:25 implications of reducing cage density in the U.S., 136:01 right? 136:02 A. Yes.		
136:21 - 137:02	Bell, Donald 2013-08-20	00:00:09	Bell_Final.106
🔗 385.1.4	136:21 Q. Okay. Now, if you look at the third 136:22 paragraph -- 136:23 A. Go ahead. 136:24 Q. Why don't you review that third paragraph 136:25 that starts, "The guidelines." 137:01 A. On the first page? 137:02 Q. Yes. Let me know when you're done.		

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DESIGNATION	SOURCE	DURATION	ID
137:03 - 137:24	Bell, Donald 2013-08-20	00:01:15	Bell_Final.107
	137:03 A. Okay.		
	137:04 Q. All right. You end it by saying, "Major		
	137:05 economic issues are involved with the question of		
	137:06 space and compliance with the specific space		
	137:07 allowance recommendations will be difficult to		
	137:08 accomplish by persuasion alone."		
	137:09 Do you see that?		
	137:10 A. Yes.		
	137:11 Q. And what did you mean by that?		
	137:12 A. This is very -- at the root issue of bird		
	137:13 numbers that I can have in my chicken house.		
	137:14 And everything that I do on this farm has		
	137:15 to do with efficient use of facilities, egg		
	137:16 processing plants, feed mills, chicken houses, and		
	137:17 so on, and so it's a multi-faceted question and		
	137:18 problem.		
	137:19 And it would be, and I think it has turned		
	137:20 out to be, one of the most difficult for people to		
	137:21 accept all aspects of that. I think they lost		
	137:22 membership because -- because of too -- these		
	137:23 requirements are too stringent. But that's why I		
	137:24 said.		
137:25 - 138:23	Bell, Donald 2013-08-20	00:00:48	Bell_Final.108
🔗 385.4	137:25 Q. All right. And if you look at page 4,		
	138:01 there is a heading that says, "Economic Benefits		
	138:02 From Reducing Cage Density"?		
	138:03 A. Yes, yes.		
🔗 385.4.1	138:04 Q. And there is a subheading that says,		
	138:05 "National Participation to Balance Supply With		
	138:06 Demand."		
	138:07 Do you see that?		
	138:08 A. Uh-huh.		
	138:09 Q. You say, "A broad industry-wide acceptance		
	138:10 of the historically proven fact that the industry		
	138:11 makes more with less (more profits with less hens)		
	138:12 would be the greatest windfall of following the UEP		
	138:13 proposed guidelines."		
	138:14 Do you see that?		
	138:15 A. I sure do.		

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DESIGNATION	SOURCE	DURATION	ID
	138:16 Q. And that was your view at the time, right?		
	138:17 A. Yes.		
	138:18 Q. And then in bold underlined it says, "The		
	138:19 task is to devise the method and motivation to		
	138:20 accomplish it voluntarily."		
	138:21 Do you see that?		
	138:22 A. Yes.		
	138:23 Q. And how was that ultimately done?		
138:25 - 140:02	Bell, Donald 2013-08-20	00:01:03	Bell_Final.109
	138:25 THE WITNESS: How is what?		
	139:01 BY MR. OLSON:		
	139:02 Q. Ultimately done.		
	139:03 A. Ultimately done?		
	139:04 Q. Yes.		
	139:05 A. What are you saying? I'm not sure.		
	139:06 Q. How was that task of encouraging national		
	139:07 participation --		
	139:08 A. Well, I assume --		
	139:09 Q. -- accomplished?		
	139:10 A. -- at the time this was written maybe		
	139:11 20 percent of the industry was acceptable to the		
	139:12 idea, eventually maybe 80 percent.		
	139:13 Windfall is something that's unexpected.		
	139:14 Unexpected, so it is not planned. It is an		
	139:15 unexpected result that these things happen.		
	139:16 We didn't go in there -- nobody went in		
	139:17 there and said let's reduce the bird numbers by		
	139:18 20 million. Because back here someplace we said		
	139:19 that they are paying for a million. So we didn't		
	139:20 have a target.		
	139:21 Q. I don't want to focus on the windfall part.		
	139:22 This idea of devising a method and motivation to		
	139:23 accomplish --		
	139:24 A. Uh-huh, yes.		
	139:25 Q. -- was that method and motivation ever		
	140:01 identified, to your knowledge, or how was that		
	140:02 solved?		
140:04 - 140:13	Bell, Donald 2013-08-20	00:00:23	Bell_Final.110
	140:04 THE WITNESS: Well, it says, "Following the		
	140:05 UEP proposed guidelines." Then it says, "The task		

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DESIGNATION	SOURCE	DURATION	ID
	140:06 is to devise the method and motivation to accomplish 140:07 it voluntarily." 140:08 And that still exists today, it existed 140:09 when the program was first introduced. 140:10 BY MR. OLSON: 140:11 Q. When you say "the program," you're talking 140:12 about the UEP-certified program? 140:13 A. Yes, yes.		
140:14 - 140:14	Bell, Donald 2013-08-20	00:00:02	Bell_Final.111
	140:14 Q. And that was the method to accomplish this?		
140:16 - 140:17	Bell, Donald 2013-08-20	00:00:02	Bell_Final.112
	140:16 BY MR. OLSON: 140:17 Q. That program?		
140:19 - 141:03	Bell, Donald 2013-08-20	00:00:36	Bell_Final.113
	140:19 THE WITNESS: Let me think what you're 140:20 saying here. 140:21 "To devise the method and motivation to 140:22 accomplish it voluntarily." 140:23 BY MR. OLSON: 140:24 Q. Right. 140:25 A. To make more money with less hens. 141:01 Q. Right. My question is: The UEP-certified 141:02 program was the method that was devised to 141:03 accomplish that goal, correct?		
141:06 - 141:21	Bell, Donald 2013-08-20	00:00:39	Bell_Final.114
	141:06 THE WITNESS: I claim there the task is to 141:07 devise, which means it hasn't been accomplished at 141:08 that point -- 141:09 BY MR. OLSON: 141:10 Q. Right. 141:11 A. -- or accepted at that point. 141:12 Q. And at this point, the certified 141:13 certification expert -- 141:14 A. I don't even use the word "certified." 141:15 Q. So do you know what you're referring to, 141:16 the method that was devised to accomplish this? 141:17 A. I say it's a task. And I didn't come right 141:18 in there and say the only way to do this is to 141:19 reduce the cages, I didn't say that. But we've		

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DESIGNATION	SOURCE	DURATION	ID
	141:20 referred to that with examples within this whole 141:21 document.		
141:22 - 142:13	Bell, Donald 2013-08-20	00:00:46	Bell_Final.115
	141:22 Q. Let me try this way. You say, "The task to 141:23 devise the method and motivation to accomplish it 141:24 voluntarily," was that task ever accomplished? 141:25 A. I would say it was accomplished 80 percent, 142:01 yeah. 142:02 Q. And you were referring to the UEP certified 142:03 program participation? 142:04 A. Well, we are talking about cage density now 142:05 and we're talking about the size of requirements, 142:06 yes, and that was accomplished X percent by the 142:07 auditing procedure. 142:08 Are you familiar with that? 142:09 Q. Yes. 142:10 A. That the farms were audited by outside 142:11 auditors, and did you meet your goal, did you meet 142:12 your target. And I don't know what the penalty was 142:13 if you didn't, but, anyway.		
142:18 - 142:25	Bell, Donald 2013-08-20	00:00:17	Bell_Final.116
🔗 385.11.1	142:18 Q. The third sentence says, "Increasing floor 142:19 space allowances are difficult to justify for the 142:20 individual farm, but if enough producers follow this 142:21 practice, industry profits will be considerably 142:22 higher as supply and demand reach a more optimum 142:23 balance." 142:24 Do you see that? 142:25 A. Yes.		
143:12 - 144:12	Bell, Donald 2013-08-20	00:01:20	Bell_Final.117
	143:12 Q. But this aspect about increasing floor 143:13 space allowances are difficult to justify for the 143:14 individual farm -- 143:15 A. That's because he's got a hundred-case- 143:16 an-hour machine and now you want him to run it at 80 143:17 cases because you're going to reduce his burden 143:18 numbers. He knows that right off the bat. He knows 143:19 his feed mill is going to be shut down one day a 143:20 week. He knows he's going to have to lay off some 143:21 labor, and they've been working for him for 25		

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DESIGNATION	SOURCE	DURATION	ID
	143:22 years. 143:23 So, you know, it's easy to say that and 143:24 easy for me to recommend something like that, but 143:25 they have to implement it. I mean, that's what the 144:01 whole thing is about, you follow the guidelines. 144:02 And you tell a person he has to reduce his 144:03 flock size by 20 percent, sure he can go build 144:04 another chicken house for that 20 percent, he can do 144:05 that -- 144:06 Q. But that's expensive? 144:07 A. But that's expensive. And he's got -- he's 144:08 already got the chickens and he's got a transition 144:09 period to shift from 100 to 80. But when it comes 144:10 time in the deadline and the audit says you still 144:11 have 100 percent, and whatever the penalty is, I'm 144:12 not aware of, but that's the issue.		
144:18 - 144:18	Bell, Donald 2013-08-20	00:00:04	Bell_Final.118
🔗 206.1.5	144:18 Q. Let me hand you what we've marked Bell 15.		
145:01 - 145:13	Bell, Donald 2013-08-20	00:00:46	Bell_Final.119
🔗 206.1.6	145:01 Q. And can you identify this as a document 145:02 that you authored on April 15th, 2002? 145:03 A. This is called a memo, and this was started 🔗 206.1 145:04 with my first relationship with UEP, which I've told 145:05 them that I would do, and it would be all economic, 145:06 it would be -- it would parallel some of the other 145:07 reports that we also told them we would continue to 145:08 produce. 145:09 I'm not sure about this particular -- well, 145:10 you want to go ahead and ask questions. Go ahead. 145:11 Q. That's helpful. 145:12 This memo is something that UEP -- that you 145:13 were compensated by UEP for writing?		
145:16 - 145:23	Bell, Donald 2013-08-20	00:00:10	Bell_Final.120
	145:16 THE WITNESS: That's what we promised to 145:17 include in our services. 145:18 BY MR. OLSON: 145:19 Q. That's a better way of putting it. Thank 145:20 you. 145:21 You say this was written under the 145:22 sponsorship of UEP?		

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DESIGNATION	SOURCE	DURATION	ID
	145:23 A. Yes.		
146:17 - 148:01	Bell, Donald 2013-08-20	00:01:21	Bell_Final.121
	146:17 Now, back to Bell Exhibit 15, what you call		
	146:18 the memo?		
	146:19 A. Yes.		
	146:20 Q. This is sometimes called a flock		
	146:21 projection?		
	146:22 A. No, it isn't.		
	146:23 Q. Okay.		
	146:24 A. It says there "flock projection," but this		
	146:25 is not the official -- this is a memo.		
	147:01 Q. A memo, okay. All right.		
🔗 206.1.1	147:02 And the subject of this one was the effect		
	147:03 on egg prices and flock performance of reducing cage		
	147:04 density, right?		
	147:05 A. Yes.		
	147:06 Q. And the first thing you say is, "Reducing		
🔗 206.1.2	147:07 the nation's average cage density can have numerous		
	147:08 positive effects on the income and costs of		
	147:09 individual producers in the industry as a whole,"		
	147:10 right?		
	147:11 A. Yes.		
	147:12 Q. Now, who are these memos distributed to?		
	147:13 A. I have no idea, but I believe UEP sent it		
	147:14 to all their members.		
	147:15 Q. So you would send it to UEP, and they		
	147:16 would --		
	147:17 A. Yes, I sent the original to UEP.		
	147:18 Q. All right.		
	147:19 Let's just go to the fourth paragraph that		
🔗 206.1.4	147:20 starts, "A one-million hen reduction."		
	147:21 A. Yes.		
🔗 206.1.3	147:22 Q. You say, "We commonly hear the excuse that		
	147:23 'If we do it, there is no guarantee that my		
	147:24 competitor will do it!"		
	147:25 Do you see that?		
	148:01 A. Uh-huh.		
148:18 - 151:16	Bell, Donald 2013-08-20	00:02:34	Bell_Final.122
	148:18 Q. And then I want to focus to the next		
	148:19 sentence.		

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DESIGNATION	SOURCE	DURATION	ID
	148:20 A. "We commonly hear the excuse 'If we do it, 148:21 there is no guarantee my competitor would do it.' 148:22 So I gained a competitive advantage because I didn't 148:23 do it. The one guy has a hundred birds in his house 148:24 and I've only got 80 and I've lost competitive 148:25 advantage. 149:01 Q. So is that the type of thing you would hear 149:02 expressed -- 149:03 A. That's the type of thing. 149:04 Q. -- by producers during the course of your 149:05 work? 149:06 A. That's right.		
🔗 206.3	149:07 Q. Now let's look at page 3. 149:08 A. Page 3? Okay. 149:09 Q. These are some data you provided. 149:10 A. Statistics, right. 🔗 206.3.1 149:11 Q. Statistic. I wanted to look at number 6 149:12 called "Force Molting." 149:13 A. You are on page 33? 149:14 Q. Yes. 149:15 A. Excuse me. Go ahead. 149:16 Q. All right. And there is data regarding 149:17 force molting? 149:18 A. Yes. 149:19 Q. Now, this force molting, that's the forced 149:20 starvation of feed withdrawal from the hen, right? 149:21 A. At that time that was a very common way, 149:22 yes. 149:23 Q. And what this indicates is that from 2000 149:24 to 2001 molting increased, right? 149:25 A. Let me explain something. Okay? 150:01 This does not say what percentage of the 150:02 chickens are molted, it says what percentage of the 150:03 chickens have been molted or are being molted. 150:04 Q. Okay. 150:05 A. Actually, at this point in time probably 150:06 two-thirds to 70 percent of all chickens were 150:07 molted. 150:08 Q. Okay. 150:09 A. Do you follow the difference between that 150:10 statement?		

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DESIGNATION	SOURCE	DURATION	ID
	150:11 Q. I think so. 150:12 A. Okay. Go ahead. 150:13 Q. And what you show here is from 2000 to 150:14 2001 -- 150:15 A. There was a slight increase. 150:16 Q. -- force molting, there was an increase? 150:17 A. In January and for the two months. And we 150:18 would start to think, well, January and February, is 150:19 this thing going to go three or four months, is it 150:20 going to keep going? If it keeps going, then people 150:21 will start to say, well, maybe it is going to result 150:22 in less eggs. 150:23 Q. And also there was more molting happening 150:24 in January and February of 2002 than January and 150:25 February of 2000? 151:01 A. That's what it says, yeah. And then 2002 151:02 you went back down. 151:03 Q. No, but 2002 is still more than what's 151:04 happening in 2000? 151:05 A. Oh, yeah, yeah, yeah. This is normal 151:06 fluctuation. 151:07 Q. Okay. But it's an increase -- just stick 151:08 with me for a moment. 151:09 A. Go ahead. 151:10 Q. In both 2001 and 2002 there was more 151:11 molting happening than in the same period -- 151:12 A. Yes, exactly. 151:13 Q. And isn't it kind of odd that was happening 151:14 when the guidelines say that force molting has 151:15 animal welfare problems? 151:16 A. No.		
151:20 - 151:25	Bell, Donald 2013-08-20	00:00:11	Bell_Final.123
	151:20 Q. Why did molting increase if the Scientific 151:21 Advisory Committee -- 151:22 A. Because they decided economically that it 151:23 was justified. 151:24 Q. And it wasn't prohibited either, was it? 151:25 A. Never prohibited.		
152:02 - 152:16	Bell, Donald 2013-08-20	00:00:29	Bell_Final.124
	152:02 THE WITNESS: That's the one letter we		

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DESIGNATION	SOURCE	DURATION	ID
	152:03 wrote way back here that says it is not a matter of 152:04 molting versus not molting, it is a matter of egg 152:05 production. 152:06 BY MR. OLSON:  206.3.2 152:07 Q. And if you look at point 7, slaughter -- do 152:08 you see that? 152:09 A. Go ahead. 152:10 Q. That's the number of birds that are 152:11 slaughtered? 152:12 A. In a USDA slaughter plant. 152:13 Q. Yes. And from 2000 to 2002 there was an 152:14 increase in the number of birds that were 152:15 slaughtered --  Clear 152:16 A. That's what it says.		
175:23 - 175:24	Bell, Donald 2013-08-21	00:00:03	Bell_Final.125
 824.1.1	175:23 All right. I've handed you what's been 175:24 marked Bell Exhibit 16....		
176:04 - 179:01	Bell, Donald 2013-08-21	00:03:26	Bell_Final.126
 824.1.2	176:04 Q. Can you identify it as a United 176:05 Voices publication dated July 29, 2002? 176:06 A. Yes, I can. 176:07 Q. And it attaches a -- what you've referred		
 824.5.1	176:08 to as a memoranda that you've prepared under the 176:09 sponsorship of UEP; is that right?		
 824.5.1	176:10 A. That's correct. We called it a memo, but 176:11 that's okay. 176:12 Q. A memo. 176:13 And the date of this memo is July 16, 2002; 176:14 is that -- 176:15 A. Yes, sir. 176:16 Q. All right. And the title of it is, 176:17 "Several Possible Scenarios Resulting From UEP's New 176:18 Husbandry Guidelines"; is that right?		
	176:19 A. Yes. 176:20 Q. And, specifically, it is a discussion of 176:21 what aspect of the husbandry guidelines? 176:22 A. The introduction refers to the effects of 176:23 the industry's potential reduction of cage 176:24 densities. That seems to be the foremost -- 176:25 Q. So, in other words, what you're looking at		

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DESIGNATION	SOURCE	DURATION	ID
	177:01 are scenarios regarding the cage density aspect of 177:02 the guidelines? 177:03 A. Yes. Yes, sir.		
🔗 824.5.4	177:04 Q. Okay. And who asked you, if anyone, to 177:05 prepare this memo? 177:06 A. Well, the introduction says, "Gene Gregory 177:07 asked me," and at that time I'm not sure whether he 177:08 was president or vice president of UEP. 177:09 Q. So Mr. Gregory from UEP had asked you to 177:10 prepare -- 177:11 A. Yes, sir. 177:12 Q. -- this memo? 177:13 And at this time you were on retainer by 177:14 UEP to prepare these types of documents, correct? 177:15 A. Yes.		
🔗 824.5.3	177:16 Q. All right. If you look at the "Background" 177:17 section it refers to the cage space standards that 177:18 UEP had developed. 177:19 Do you see that? 177:20 A. Yes. 177:21 Q. And it says, "The standards described the 177:22 stepwise introduction of increased space 177:23 allowances." 177:24 What were you referring to there? 177:25 A. "Standards described the stepwise" -- in 178:01 other words, it would be a transition period under 178:02 which everyone has an opportunity to get their goal. 178:03 It's impossible to get to your goal 178:04 overnight, so it's a -- apparently it's about a 178:05 six-year -- in the table, a six-year period to 178:06 eventually get to your goal.		
🔗 824.5.7	178:07 Q. And you refer, actually, to a seven-year 178:08 period in this discussion? 178:09 A. Okay. That's -- 178:10 Q. Do you see that? 178:11 A. Well, I don't see where -- where is that -- 178:12 I see that, yes. 178:13 Q. Do you see where you write, "the producer's 178:14 committee has advised that such changes shall take 178:15 place over a seven-year period from 2002 to 2008 in 178:16 order to cause the least disruption in production		

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DESIGNATION	SOURCE	DURATION	ID
	178:17 and marketing processes."		
	178:18 Do you see that?		
	178:19 A. That would be the UEP's committee and not		
	178:20 the Scientific Advisory Committee.		
	178:21 Q. Right. And is that consistent with your		
	178:22 knowledge of why the UEP producer committee decided		
	178:23 that there should be this seven-year period?		
	178:24 A. It could have been more, it could have been		
	178:25 less. I assume this was some kind of a compromise		
	179:01 among the members.		
179:02 - 179:03	Bell, Donald 2013-08-21	00:00:05	Bell_Final.127
	179:02 Q. But the goal was to avoid or to minimize		
	179:03 disruption in production?		
179:05 - 179:05	Bell, Donald 2013-08-21	00:00:00	Bell_Final.128
	179:05 THE WITNESS: Yes.		
179:07 - 179:18	Bell, Donald 2013-08-21	00:00:37	Bell_Final.129
	179:07 Q. Did you attend meetings of the UEP producer		
	179:08 committee?		
	179:09 A. No.		
	179:10 Q. Never?		
	179:11 A. Never, never, never? They may have been		
	179:12 part of the annual meeting where I made a		
	179:13 presentation. There was no formal attendance at		
	179:14 their meetings. I don't think they really		
	179:15 encouraged it. They may have had the chairperson of		
	179:16 our -- of the scientific committee.		
	179:17 If I attended, it would have been in		
	179:18 association with their annual meeting.		
179:19 - 179:23	Bell, Donald 2013-08-21	00:00:16	Bell_Final.130
	179:19 Q. Now, strictly from the standpoint of supply		
	179:20 management, did you anticipate any benefit from the		
	179:21 fact that the guidelines involved this stepwise		
	179:22 increase of cage space allowances over a seven-year		
	179:23 period?		
179:25 - 180:10	Bell, Donald 2013-08-21	00:00:44	Bell_Final.131
	179:25 THE WITNESS: Obviously, the intent of		
	180:01 reducing the overpopulation of chickens was intended		
	180:02 to take time. This was an animal welfare issue, and		
	180:03 it couldn't be done without extreme disruption of		

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DESIGNATION	SOURCE	DURATION	ID
	180:04 individual companies' replacement policies. 180:05 It takes five to six months to grow a young 180:06 chicken. And then there's another eight or ten 180:07 flocks alive that are producing eggs for the 180:08 company. And overnight would totally disrupt the 180:09 marketing of eggs and the supply of eggs in the 180:10 United States.		
180:15 - 180:22	Bell, Donald 2013-08-21	00:00:28	Bell_Final.132
	180:15 Q. As we discussed yesterday, the goal of 180:16 supply management and balancing supply and demand 180:17 was one you thought was important? 180:18 A. I do. 180:19 Q. Focusing on that goal, did you anticipate 180:20 benefits to the industry resulting from the fact 180:21 that the guidelines contemplated a seven-year 180:22 stepwise increase of cage space allowances?		
180:25 - 181:12	Bell, Donald 2013-08-21	00:00:26	Bell_Final.133
	180:25 THE WITNESS: I anticipated a partial 181:01 benefit the first year, more benefit the second year 181:02 and final benefit the seventh year. That would be 181:03 the ultimate benefit. 181:04 BY MR. OLSON: 181:05 Q. And how about years three through six? 181:06 A. The same, I'm not giving you every single 181:07 year, but -- 181:08 Q. Okay. So just to be clear -- 181:09 A. -- progressively. 181:10 Q. -- a progressive benefit over the course of 181:11 the seven years? 181:12 A. Yes.		
181:15 - 182:03	Bell, Donald 2013-08-21	00:00:50	Bell_Final.134
	181:15 Q. And just to be clear, you anticipated a 181:16 progressive benefit over the course of the seven 181:17 years? 181:18 A. Yes. 181:19 Q. And why was that? 181:20 A. Because everyone was not required to comply 181:21 every year to the same extent. They were required 181:22 to comply by the seventh year. And that's when 181:23 everyone should have gotten to their goal of flock		

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DESIGNATION	SOURCE	DURATION	ID
	181:24 size, density, the whole issue. 181:25 Q. But even for those folks who were signed up 182:01 from day 1, did you anticipate a benefit from their 182:02 stepwise increase over each of the seven years, a 182:03 benefit in the industry?		
182:05 - 183:01	Bell, Donald 2013-08-21	00:00:54	Bell_Final.135
	182:05 THE WITNESS: The benefits could only go to 182:06 year 7. If you started the very first year and took 182:07 care of your entire responsibility, then you were 182:08 going to have the lower density for the entire seven 182:09 years. But you didn't have to meet the obligations, 182:10 except for these dates here that are on this chart. 182:11 So you were not required to do it in the first year. 182:12 BY MR. OLSON: 182:13 Q. Right. Well, let's make sure we're 182:14 speaking the same language. 182:15 A. Go ahead. 182:16 Q. Your point is under the program, a producer 182:17 wasn't required to get to 67 inches right away? 182:18 A. Right. 182:19 Q. But there were requirements for each year 182:20 under the program, right? 182:21 A. Yes. That's what is spelled out here. 182:22 There is a different total allowance for each year. 182:23 Q. Right. And those numbers are going up; in 182:24 other words, each year a producer had to increase 182:25 the space allowance? 183:01 A. Uh-huh -- yes.		
184:01 - 184:05	Bell, Donald 2013-08-21	00:00:15	Bell_Final.136
	184:01 Q. And now stepping back for the industry as a 184:02 whole, did you anticipate, based on the work and 184:03 analysis you had done, a progressive benefit over 184:04 the course of the seven years for the industry as a 184:05 whole?		
184:07 - 184:08	Bell, Donald 2013-08-21	00:00:02	Bell_Final.137
	184:07 THE WITNESS: I think I've said that 184:08 already, yes.		
184:20 - 185:16	Bell, Donald 2013-08-21	00:00:59	Bell_Final.138
 Clear	184:20 Q. And the benefit of that plan was what?		

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DESIGNATION	SOURCE	DURATION	ID
	<p>184:21 A. It would have accrued to the entire 184:22 industry.</p> <p>184:23 Q. And the benefit that would have accrued to 184:24 the entire industry was what?</p> <p>184:25 A. Higher prices.</p> <p>185:01 Q. Now, in this piece you mention a couple of 185:02 variables that you looked at in your modeling, true?</p> <p>185:03 A. Yes.</p> <p>185:04 Q. Sometimes I have to ask just preliminary 185:05 questions like that.</p> <p>185:06 A. Okay.</p> <p>185:07 Q. And one of those was this concept of 185:08 backfilling; is that right?</p> <p>185:09 A. Yes.</p> <p>185:10 Q. You anticipated that some backfilling would 185:11 occur and that it was variable in how this would 185:12 unfold?</p> <p>185:13 A. Would you refer to the comment about 185:14 backfilling?</p>		
🔗 824.6	<p>185:15 Q. Yes. If you look at page 2.</p> <p>185:16 A. Page 2?</p>		
185:22 - 186:18	Bell, Donald 2013-08-21	00:01:04	Bell_Final.139
🔗 824.6.1	<p>185:22 Q. Now, on page 2 --</p> <p>185:23 A. Item 1 here?</p> <p>185:24 Q. Yes. You say, "Increases in hen counts by 185:25 backfilling cages at 'push-out' time or by utilizing 186:01 previously unused farms or houses may have 186:02 occurred."</p> <p>186:03 Do you see that?</p> <p>186:04 A. Yes, sir.</p> <p>186:05 Q. And so this concept of backfilling was 186:06 something that you anticipated might occur?</p> <p>186:07 A. That would -- that would make the analysis 186:08 less certain because it's an individual choice to 186:09 backfill or not to backfill, and it would probably 186:10 never make the final outcome off by more than 5 or 186:11 10 percent, because you only have so many empty 186:12 cages. And, also, it's a policy for many companies 186:13 not to backfill at all.</p> <p>186:14 Q. But just as a preliminary point --</p>		

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DESIGNATION	SOURCE	DURATION	ID
	186:15 A. Uh-huh. 186:16 Q. -- the idea that some companies might 186:17 backfill was a possibility you recognized? 186:18 A. Yes.		
186:21 - 187:17	Bell, Donald 2013-08-21	00:00:45	Bell_Final.140
🔗 824.6.2	186:21 Q. Now, if you turn to the next page -- well, 186:22 actually, still at the bottom of 2, another variable 186:23 you mentioned was the introduction of new houses or 186:24 farms. 186:25 Do you see that --		
🔗 824.6.3	187:01 A. Yes. 187:02 Q. -- heading? 187:03 And then it's discussed a little bit more 187:04 on the next page. 187:05 A. Uh-huh. 187:06 Q. And -- 187:07 A. Yes, sir. 187:08 Q. -- if you look, there is a large paragraph 187:09 there that starts "The model looks at." 187:10 Why don't you review that paragraph to 187:11 yourself? 187:12 A. I did. 187:13 Q. Okay. 187:14 A. The model looks at different growth rates 187:15 in the industry, beginning in 2002 going to 2010. 187:16 Q. And when you refer to growth rates, what -- 187:17 A. Numbers of chickens or numbers of eggs.		
188:11 - 188:13	Bell, Donald 2013-08-21	00:00:12	Bell_Final.141
	188:11 Q. And why was there hope at this time that 188:12 the cage space guidelines could lead to a sustained 188:13 improvement in the supply/demand relationship?		
188:17 - 189:01	Bell, Donald 2013-08-21	00:00:41	Bell_Final.142
	188:17 THE WITNESS: The existence of a single 188:18 chicken house has a maximum capacity and it has a 188:19 UEP recommended capacity. And until -- and once 188:20 you've reached the UEP number, the only way that you 188:21 can affect the population in the United States is 188:22 either through productivity of the individual 188:23 chicken, which it does increase every year, or by 188:24 someone building a new complex or new houses,		

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	188:25 because the new capacity of that house is a 189:01 constant.		
189:03 - 189:06	Bell, Donald 2013-08-21	00:00:13	Bell_Final.143
	189:03 Q. Now, this possibility of producers building 189:04 new complexes and housing is something that you 189:05 considered as well, in your work? 189:06 A. Yes, that's the growth factor.		
189:07 - 189:09	Bell, Donald 2013-08-21	00:00:13	Bell_Final.144
	189:07 Q. And one of the factors that you point out 189:08 here is that that type of -- or building new housing 189:09 was going to be more expensive?		
189:12 - 189:18	Bell, Donald 2013-08-21	00:00:10	Bell_Final.145
	189:12 THE WITNESS: Does it actually say that? 189:13 BY MR. OLSON: 189:14 Q. Well, do you see where you say in the next 189:15 sentence, "More expensive housing" -- 189:16 A. I see it, I see it, yeah. 189:17 Q. -- "(as a result of lower cage density) 189:18 should delay start-up decisions and financing"?		
189:19 - 190:01	Bell, Donald 2013-08-21	00:00:08	Bell_Final.146
	189:19 A. Immediately if you build -- 189:20 MR. GODLSTEIN: Wait for him to finish the 189:21 question. 189:22 THE WITNESS: Excuse me. I thought he was 189:23 finished. 189:24 BY MR. OLSON: 189:25 Q. I was. 190:01 Go ahead.		
190:03 - 190:09	Bell, Donald 2013-08-21	00:00:25	Bell_Final.147
	190:03 THE WITNESS: Immediately the house is 190:04 going to cost more per bird as you remove 20 percent 190:05 of the birds. The per-bird cost is going to go up. 190:06 Costs, in general, go up annually with the 190:07 economics of the time. Lumber costs go up and the 190:08 metal costs go up, and so on, so that, I think, is a 190:09 very conservative estimate.		
191:03 - 192:18	Bell, Donald 2013-08-21	00:02:57	Bell_Final.148
	191:03 Q. Now, in order for the egg industry to 191:04 benefit as a whole from these guidelines, was there		

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DESIGNATION	SOURCE	DURATION	ID
191:05	any limit, in your view, on how many new housing		
191:06	complexes should be built?		
191:07 A.	Well, we have to keep up with the human		
191:08	population in the United States. As the human		
191:09	population goes up 1 percent a year, which is		
191:10	3 million, theoretically you need 3 million more		
191:11	chickens, just to keep the status quo.		
191:12	Now, if the consumption of eggs goes down,		
191:13	and, of course, those numbers are going to change.		
191:14	You have to take into consideration the		
191:15	increasing productivity of the chickens at the rate		
191:16	of half a percent a year. Over that seven-year		
191:17	period, you would be projecting another 3 1/2		
191:18	percent production, and that's -- and that's a lot.		
191:19	That's 10 million birds.		
191:20 Q.	So, in other words, the egg industry, even		
191:21	under the guidelines, might need to increase		
191:22	production to some extent?		
191:23 A.	If you look at the statistics that we		
191:24	produce in our newsletter, you'll see that the layer		
191:25	numbers in the United States have been very		
192:01	constant, very constant layer numbers. Now,		
192:02	remember I told you productivity of each chicken has		
192:03	changed --		
192:04	So all these factors, you've got the		
192:05	consumers' reaction to newspaper clippings about		
192:06	cholesterol or other factors, other health factors.		
192:07	You have some disease epidemics that have occurred		
192:08	that will scare people away from eating eggs. And		
192:09	so, you know, there's multiple factors going on.		
192:10	And all of these -- if we considered every single		
192:11	one of them, the story might be totally different,		
192:12	but you have to take a center position.		
192:13 Q.	Well, I'd like to focus on this factor of		
192:14	building new housing complexes.		
192:15 A.	Yes.		
192:16 Q.	Are you aware of efforts by UEP to persuade		
192:17	its members not to overbuild as a result of the		
192:18	increased space allowances under the guidelines?		

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DESIGNATION	SOURCE	DURATION	ID
	192:20 THE WITNESS: There are several answers to 192:21 that question. Do you want them all? 192:22 BY MR. OLSON: 192:23 Q. Yes. Let's start with the first one. 192:24 A. One suggestion and recommendation to 192:25 members is that they don't build brand-new -- add on 193:01 facilities to what they've already got and that they 193:02 buy someone else out. 193:03 Q. And that was a suggestion and 193:04 recommendation made by UEP? 193:05 A. UEP, right. 193:06 So the intent there is to try to stabilize 193:07 the bird numbers. Once you accomplish the stable 193:08 bird numbers, you don't want people going out there 193:09 and doubling their number of houses, do you? And --		Bell_Final.149
193:24 - 194:09	Bell, Donald 2013-08-21	00:00:29	Bell_Final.150
	193:24 THE WITNESS: Houses only last so long, and 193:25 equipment, and therefore, they are only efficient 194:01 for so many years and then they start to fall down. 194:02 So there is ongoing replacement of houses all the 194:03 time. 194:04 And when they have a requirement to have 80 194:05 percent of the population in any given house, the 194:06 new house will be designed with that in mind and it 194:07 will be a new hundred percent. It won't be an 80 194:08 percent, it will be a hundred percent of that new 194:09 house.		
195:05 - 195:07	Bell, Donald 2013-08-21	00:00:12	Bell_Final.151
	195:05 Q. Okay. And what do you recall about 195:06 caution -- or UEP cautioning its members not to grow 195:07 in numbers of birds or production?		
195:09 - 196:16	Bell, Donald 2013-08-21	00:01:47	Bell_Final.152
	195:09 THE WITNESS: Well, that's for my own 195:10 personal opinion -- viewpoint. The fact that they 195:11 send out my newsletter with my recommendations on 195:12 that means that they are in somewhat of an agreement 195:13 with what I'm saying. 195:14 BY MR. OLSON: 195:15 Q. Because you personally cautioned against 195:16 producers growing in numbers of birds and		

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DESIGNATION	SOURCE	DURATION	ID
	195:17 production? 195:18 A. Yes. I cannot point to their actual 195:19 document. Maybe this kind of a newsletter here, it 195:20 would say something to that effect. But the add on, 195:21 which is my letter, certainly would, over time, say 195:22 that too many birds is detrimental. 195:23 Q. And, specifically in the context of the 195:24 increased space allowances under the program, you 195:25 cautioned against reacting to that by growing the 196:01 number of birds and production and cautioned against 196:02 doing that? 196:03 A. The two are independent of one another. 196:04 Once you get to this lower number, and then you have 196:05 no recommendations, regulations or anything else 196:06 that keeps you from -- other than maintaining the 196:07 capacity of those houses, you have nothing that will 196:08 keep you from building the second house. And that's 196:09 what you're cautioning the industry not to do.		
🔗 824.8	196:10 Q. All right. Now let's look at page 4 of the 196:11 document in front of you. There is a heading that 196:12 says "Results" -- 196:13 A. Okay.		
🔗 824.8.1	196:14 Q. -- and you're summing up some of your work 196:15 here. Have you had a chance to just briefly review 196:16 the "Results" section?		
196:22 - 196:24	Bell, Donald 2013-08-21	00:00:12	Bell_Final.153
	196:22 So you are modeling the effect here -- or 196:23 you're reporting possible outcomes from the effect 196:24 of the cage space guidelines, right?		
197:04 - 199:23	Bell, Donald 2013-08-21	00:03:43	Bell_Final.154
	197:04 Q. And you have a couple different ways 197:05 of looking at it. One is the results, if there was 197:06 100 percent compliance and no growth? 197:07 A. Yes. 197:08 Q. And then you also look at 50 percent 197:09 compliance and 10 percent sustained growth rate. 197:10 Those are basically the two ways you look at it 197:11 here, right? 197:12 A. I assume you're correct. I haven't read it 197:13 in detail.		

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DESIGNATION	SOURCE	DURATION	ID
	197:14 Q. Well, just what you report here in the 197:15 "Results" section? 197:16 A. Okay. Well, you'll have to show the 197:17 specific sentence you are talking about. 197:18 Are you in "Results"? Which item? 197:19 Q. Okay. So number 1 says with a hundred 197:20 percent compliance and no growth, right? 197:21 A. Uh-huh. 197:22 Q. You estimated that chicks hatched in 2009 197:23 would be down over 26 percent, correct? 197:24 A. Yes, sir. 197:25 Q. And then if you look at number 4 you say 198:01 even with 50 percent compliance and at a 10 percent 198:02 sustained growth rate, the nation's flock in 2009 198:03 would still be smaller than it was today? 198:04 A. Yes. 198:05 Q. So you had maybe an aggressive assumption 198:06 and a conservative assumption there showing a range? 198:07 A. I would have tried to bracket the possible 198:08 conditions, yes. 198:09 Q. All right. And when you say in number 6, 198:10 "total industry farm egg income," subtracting -- and 198:11 you subtract 35 cents per dozen. 198:12 Do you see that? 198:13 A. I see that. 198:14 Q. Why are you subtracting 35 cents per dozen? 198:15 A. I'm not sure I know.		
🔗 824.8.2	198:16 Q. Fair enough. In your "Comments" section at 198:17 the bottom -- 198:18 A. Yes. 198:19 Q. -- you say, "We don't expect everyone to 198:20 believe the precise numbers that are listed in the 198:21 tables, but the general directions should be of 198:22 interest to everyone in table-egg production." 198:23 Do you see that? 198:24 A. Yes, sir. 198:25 Q. Why did you believe the general direction 199:01 would be of interest? 199:02 A. Well, this is always -- there is always a 199:03 disclaimer in most everything we write. So you 199:04 don't want to say this is a black-and-white		

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DESIGNATION	SOURCE	DURATION	ID
	199:05 situation, so you do use a disclaimer statement. 199:06 But in looking at different scenarios, the 199:07 direction is what's important. It's -- is it a 199:08 factual direction, and I believe it was, I believe 199:09 it is. 199:10 Q. And what's the direction that you're 199:11 reporting here? 🔗 824.8.3 199:12 A. Well, we're basically, once again, talking 199:13 about the egg numbers or bird numbers and price, and 199:14 so we're talking about the gross income of the 199:15 industry here in item 7, or whatever. So we're 199:16 looking at multiplying bird numbers, times 199:17 productivity, times price, holding, we'll say, feed 199:18 price constant, so you can look at the effective 199:19 income. And you can run your models through 199:20 different scenarios, that's what we've done, and 199:21 saying, well, the general direction is with 199:22 reduction of bird numbers, income of industry will 199:23 rise.		
201:03 - 201:07	Bell, Donald 2013-08-21	00:00:18	Bell_Final.155
	201:03 Q. -- the more producers -- the more eggs that 201:04 are produced under the program -- 201:05 A. Yes. 201:06 Q. -- the more -- the better prices and the 201:07 better profits for all producers?		
201:10 - 202:06	Bell, Donald 2013-08-21	00:01:08	Bell_Final.156
	201:10 THE WITNESS: Yes, but I'd like to add to 201:11 that. 201:12 BY MR. OLSON: 201:13 Q. Sure. 201:14 A. Okay. There's only so much history 201:15 involving extremely high egg prices or high egg 201:16 prices, period, so the analyses have to deal with 201:17 history. 201:18 And history says that, within a range, 201:19 these events are related. 201:20 When you go to conditions like we have 201:21 today, and we have totally different cost structure, 201:22 totally different price structure and you have 201:23 nothing to predict it on.		

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DESIGNATION	SOURCE	DURATION	ID
	201:24 It's just like I read the other day that 201:25 Mexico prices of eggs were 80 -- no, \$2.00 -- \$8.00 202:01 a dozen, that's what they were when they had this 202:02 disease problem. That's totally unpredictable. No 202:03 one would have predicted that, and it's the same 202:04 thing with when our feed prices double, no one would 202:05 have predicted that would have happened or the 202:06 results, just the general.		
202:07 - 202:23	Bell, Donald 2013-08-21	00:00:46	Bell_Final.157
	202:07 Q. We'll circle back to that, but just so your 202:08 testimony is clear, the direction that you were 202:09 saying in July of 2002 that should be of interest to 202:10 everyone is that the more eggs that are produced 202:11 under the UEP program, the better prices for the 202:12 industry as a whole?		
	202:13 A. The fewer eggs, not the more. You said 202:14 "more."		
	202:15 Q. The higher percentage of eggs that are 202:16 subject to the program.		
	202:17 A. That makes fewer eggs.		
	202:18 Q. Right.		
	202:19 A. Okay. You didn't say that.		
	202:20 Q. All right. So the higher percentage of 202:21 eggs that are subject to the program, the better 202:22 prices and profits for all producers?		
	202:23 A. Yes.		
203:10 - 203:10	Bell, Donald 2013-08-21	00:00:04	Bell_Final.158
🔗 825.1.1	203:10 Q. Let me hand you what we marked Bell 17.		
203:11 - 203:13	Bell, Donald 2013-08-21	00:00:10	Bell_Final.159
🔗 825.11	203:11 And I'm only going to ask you to look at a 203:12 portion of this, which is towards where you are. It 203:13 is towards the back.		
203:17 - 203:20	Bell, Donald 2013-08-21	00:00:11	Bell_Final.160
🔗 825.11.1	203:17 Q. And it's -- the heading is, "Reason Why 203:18 Industry Could Have Period of Profitability. 203:19 Editorial By: Gene Gregory." 203:20 A. Yes.		
204:06 - 204:20	Bell, Donald 2013-08-21	00:00:27	Bell_Final.161
	204:06 Q. All right. Now, do you recall, after		

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DESIGNATION	SOURCE	DURATION	ID
	204:07 looking at this, whether you've seen this editorial 204:08 before? 204:09 A. Having read this editorial? 204:10 Q. Yes. 204:11 A. I would do it automatically. 204:12 Q. Okay. So -- okay. 204:13 Now, in this editorial Mr. Gregory is 204:14 referring to the fact that egg prices have reached 204:15 very high levels. 204:16 A. And the date is 2003? 204:17 Q. August of 2003. 204:18 A. August. Okay. 204:19 Q. Do you see that? 204:20 A. I see it.		
205:06 - 205:25	Bell, Donald 2013-08-21	00:00:58	Bell_Final.162
	205:06 In any case, just to orient ourselves, it 205:07 appears in August 2003 eggs prices have -- 205:08 A. And, of course, that's the summertime, and 205:09 summertime is usually the lowest price for the year. 205:10 Q. Right. And, in fact, Mr. Gregory reports 205:11 the Urner Barry quote had reached a level in the 205:12 summer of 2003 that had never previously been 205:13 recorded. 205:14 Do you see that right at the very 205:15 beginning? 205:16 A. That's -- well, he had a quote of a dollar. 205:17 Urner Barry quoted, not what the producer gets, by 205:18 any means. It's a benchmark. 205:19 So if he's comparing apples and apples, and 205:20 then I guess he's made -- he's researched the 205:21 subject. 205:22 I would have my own data on the monthly egg 205:23 prices that I maintain, and I could go back and 205:24 verify it if you want me to. I didn't make any 205:25 attempt to verify it.		
206:06 - 206:22	Bell, Donald 2013-08-21	00:00:34	Bell_Final.163
825.11.2	206:06 Q. And in there Mr. Gregory writes, "the fact 206:07 that approximately 200 companies have begun 206:08 implementing the program, this has caused a flock 206:09 production and will continue to do so for some		

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DESIGNATION	SOURCE	DURATION	ID
	206:10 time."		
	206:11 Do you see that?		
	206:12 A. Yes.		
🔗 825.11.3	206:13 Q. And then in the next paragraph do you see 206:14 where he says, "The hatch reduction to meet the 206:15 Animal Husbandry Guidelines began with chicks 206:16 hatched after April 1, 2002"?		
	206:17 A. Yes.		
	206:18 Q. Now based -- to your knowledge, is there a 206:19 relevant distinction between flock reduction and a 206:20 hatch reduction in this context?		
	206:21 A. They should be -- they should be ☒ Clear 206:22 correlated.		
210:01 - 212:12	Bell, Donald 2013-08-21	00:03:22	Bell_Final.164
🔗 696.1.4	210:01 Q. Let me hand you what we marked Bell 18. 210:02 A. Okay. "High Egg Prices and Molting." 210:03 Go ahead. 210:04 Q. And this is a document Bates-stamped 210:05 BELL002761 through -2763.		
🔗 696.1.1	210:06 And can you identify this, Mr. Bell, as one 210:07 of the memos you wrote under the sponsorship of UEP 210:08 dated December 10th, 2003? 210:09 A. Yes, sir. 210:10 Q. It's titled, "High Egg Prices and Molting 210:11 How Egg Prices Affect the Decision to Molt," right?		
	210:12 A. Yes.		
🔗 696.1.2	210:13 Q. Now, from the first sentence of your memo 210:14 you're indicating that based on the data that you 210:15 looked at, the industry, by the end of 2003, was 210:16 experiencing some of the highest producer egg prices 210:17 in history, right? 210:18 A. That's what it says, yes. 210:19 Q. And then in the document you look at how 210:20 that affects decisions, the economics of the 210:21 decision of a producer to molt? 210:22 A. Yes.		
🔗 696.2.1	210:23 Q. And if you look at page 2 at the end of the 210:24 second paragraph from the top, you write, "Obviously 210:25 current egg price levels do not justify molting." 211:01 Do you see that?		

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DESIGNATION	SOURCE	DURATION	ID
	<p>211:02 A. When it underlines "current" -- what does 211:03 it say about current? -- it underlines the word 211:04 "current"?</p> <p>211:05 Q. Right.</p> <p>211:06 A. So it says -- the other statement is 211:07 relative to general prices and so on.</p> <p>211:08 The current says that the relationship at 211:09 this moment is that you shouldn't molt, right, "do 211:10 not justify molting."</p> <p>211:11 So if you look at all of the possibilities 211:12 of molting price there is a relationship, but you 211:13 can go too far and you don't go far enough.</p> <p>211:14 Individual companies can make a lot more 211:15 money molting, other companies can make a lot more 211:16 money not molting and so you can condemn it -- I 211:17 think we had another document that some of the 211:18 members were condemning it, per se. Well, that's 211:19 just not --</p> <p>211:20 Q. But from the point of view of economics, 211:21 the point you make here is that, in general, molting 211:22 appears to be justified only under low margin 211:23 combinations of low egg prices and high pullet 211:24 prices?</p> <p>211:25 A. Did I say "only"?</p>		
🔗 696.2.2	<p>212:01 Q. Do you see where you say, "In general, 212:02 molting appears to be just identified only under low 212:03 margin combinations of low prices and high" --</p> <p>212:04 A. I did say "only," yeah.</p> <p>212:05 Q. And that was your view at the time?</p> <p>212:06 A. Obviously, yes.</p> <p>212:07 Q. And the point you're making here is under 212:08 these very high egg prices --</p> <p>212:09 A. These are not high egg prices.</p> <p>212:10 Q. Well, you referred to them as the 212:11 highest --</p> <p>212:12 A. I mean compared to today.</p>		
☒ Clear			
216:02 - 216:05	Bell, Donald 2013-08-21	00:00:13	Bell_Final.165
🔗 154.1.2	216:02 Q. All right, Mr. Bell, we're looking at Bell		
🔗 154.1.1	216:03 Exhibit 19. Can you identify this as an e-mail you		
	216:04 sent to Al Pope and Gene Gregory on March 24th, 2004		

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DESIGNATION	SOURCE	DURATION	ID
	216:05 with an attachment that's one of your memos.		
216:08 - 217:10	Bell, Donald 2013-08-21	00:01:16	Bell_Final.166
	216:08 Q. And do you recall preparing this memo?		
	216:09 A. Yes.		
	216:10 Q. Do you recall discussing it with Al Pope		
	216:11 and Gene Gregory?		
	216:12 A. Only in e-mail form.		
	216:13 Q. Do you recall discussions other than what		
	216:14 we're looking at here in Bell 19?		
	216:15 A. About this same subject?		
	216:16 Q. Right.		
	216:17 A. About this newsletter?		
	216:18 Q. Right.		
	216:19 A. No, I don't recall any discussion about it,		
	216:20 except for the e-mail.		
🔗 154.2	216:21 Q. Okay. Fair enough. So let's look at the		
	216:22 memo. And it is dated March 1, 2004, and it's		
🔗 154.2.1	216:23 titled, "What a Difference a Year Makes," and it is		
	216:24 one you prepared, correct?		
	216:25 A. Yes.		
	217:01 Q. When you say "What a Difference a Year		
	217:02 Makes," you're referring to, at least in part, the		
	217:03 prices that were at favorable levels at the time?		
	217:04 A. I would say I was looking at total margin,		
	217:05 total net income. That's the number we're quoting		
	217:06 here.		
	217:07 Q. When you say "net income," that means		
	217:08 profits?		
	217:09 A. Good question. It would be income minus		
	217:10 costs.		
217:17 - 217:20	Bell, Donald 2013-08-21	00:00:14	Bell_Final.167
🔗 154.2.2	217:17 And what you report here is over the course		
	217:18 of the year, the conditions in the industry that		
	217:19 prevailed led to an improvement in industry revenue		
	217:20 of \$1 billion or more?		
217:23 - 218:05	Bell, Donald 2013-08-21	00:00:21	Bell_Final.168
	217:23 Q. Is that right?		
	217:24 A. That's conclusions. The table indicates it		
	217:25 is mostly egg price was the reason.		
	218:01 Q. The improved egg price led to --		

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DESIGNATION	SOURCE	DURATION	ID
	218:02 A. Yes. 218:03 Q. -- an improvement in revenue of a billion 218:04 dollars or more? 218:05 A. Yes.		
218:17 - 218:20	Bell, Donald 2013-08-21	00:00:12	Bell_Final.169
🔗 154.2.3	218:17 Q. And one thing that you observed during this period is that the industry had successfully held hen numbers down, correct? 218:20 A. That's what the statement says, yes.		
219:23 - 220:05	Bell, Donald 2013-08-21	00:00:25	Bell_Final.170
	219:23 Q. But putting aside what's stated in the document, your expectation, based on the work you've done, was that the implementation of the cage space guidelines was going to affect supply in a manner consistent with what's reported here? 220:03 A. We -- in other -- in other reports that we've already discussed, that would be the relationship that we would expect.		
220:11 - 220:21	Bell, Donald 2013-08-21	00:00:56	Bell_Final.171
🔗 826.1.1	220:11 Q. Let me hand you what we've marked Bell 20. 220:12 This is Bates-stamped BELL-D-0028600 through -28605. 220:13 And, Mr. Bell, can you identify this as a		
🔗 826.1.2	220:14 memo that you wrote dated July 23, 2004 and titled, 220:15 "Arguments For and Against Back Filling Table Egg Layer Flocks"? 220:17 A. Yes. 220:18 Q. Now, we've seen in some other memos that 220:19 you say that Gene Gregory had asked you to look at 220:20 the subject of the memo. Do you recall whether 220:21 Mr. Gregory asked you to look at backfilling?		
220:24 - 221:08	Bell, Donald 2013-08-21	00:00:37	Bell_Final.172
	220:24 THE WITNESS: I have a feeling that he 220:25 asked me to write this one, because I don't usually 221:01 use the word "backfilling." I think that's more of 221:02 an industry word than one I would use. 221:03 BY MR. OLSON: 221:04 Q. And do you recall at this time that 221:05 backfilling was something that Gregory was concerned 221:06 about?		

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DESIGNATION	SOURCE	DURATION	ID
	221:07 A. He would be concerned with anything that 221:08 diluted the effects of their cage density policies.		
221:09 - 221:21	Bell, Donald 2013-08-21	00:00:52	Bell_Final.173
	221:09 Q. And would it be fair to say that there was 221:10 some concern by Mr. Gregory and others at this time 221:11 that backfilling was a loophole of sorts in those 221:12 cage density policies?		
	221:13 A. I personally would be opposed to 221:14 backfilling, more from a social, chicken social, and 221:15 from a disease potential. Historically, we never 221:16 recommend backfilling. 221:17 Also from identification of a flock, we 221:18 lose total identification when we mix birds from 221:19 other flocks. And I depend very heavily on flock 221:20 identity and flock performance in all of our 221:21 studies, model building, and so on.		
221:25 - 222:09	Bell, Donald 2013-08-21	00:00:29	Bell_Final.174
	221:25 Q. Well -- and we'll get to that. But just as 222:01 these preliminary questions going back to 222:02 Mr. Gregory's interest in this, and you referred to 222:03 Mr. Gregory being concerned with anything that 222:04 diluted the effects of the cage density policies.		
	222:05 A. Yes. 222:06 Q. Just to refocus on that for a moment, my 222:07 question was, were you aware of a concern by 222:08 Mr. Gregory at this time that backfilling was a 222:09 loophole of sorts in those cage density policies?		
222:12 - 223:17	Bell, Donald 2013-08-21	00:01:49	Bell_Final.175
	222:12 THE WITNESS: The recommendations of UEP 222:13 and the agreements that people made relative to 222:14 density were for a maximum number of birds. 222:15 If a person had normal mortality versus a 222:16 catastrophic mortality, there's two different 222:17 thoughts about backfilling. 222:18 If your house is only -- if you're only 222:19 allowed 80 percent of your original, you originally 222:20 had 100 percent, now 80, and you lost half of them 222:21 due to a catastrophic emergency, then he would make 222:22 a very big claim to somebody to replace those 222:23 missing birds, because they are going to be missing		

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	222:24 for one or two years. That's the whole concept. 222:25 So you have people that are having 223:01 excessive mortality. And what I mean by "excessive 223:02 mortality," it would be, say, from 10 points -- .1 223:03 percent a week to 40 or 50, and so that's a four- to 223:04 fivefold difference in mortality. 223:05 So it's an offer from the system to the 223:06 individual members who need to do this, who need to 223:07 do this because it reduces their hen numbers way 223:08 more than normal. 223:09 BY MR. OLSON: 223:10 Q. Okay. Let's put aside the issue of 223:11 excessive mortality. 223:12 A. Okay. 223:13 Q. Putting aside that issue, were you aware of 223:14 a concern at this time in 2004 that the use of 223:15 backfilling in cases of normal mortality was 223:16 undercutting the purposes of the cage density 223:17 guidelines?		
223:19 - 223:21	Bell, Donald 2013-08-21	00:00:12	Bell_Final.176
	223:19 THE WITNESS: Any backfilling would 223:20 increase the population and would defeat the 223:21 original effect of reducing the profitability.		
224:02 - 225:25	Bell, Donald 2013-08-21	00:02:46	Bell_Final.177
	224:02 Q. Was that a concern that Mr. Gregory had at 224:03 this time, to your knowledge? 224:04 A. He would have been confronted with -- from 224:05 individual members that this is a concern to me as 224:06 an individual member, and if there is enough of 224:07 that, then it is a concern to UEP as well. And if 224:08 there is enough concern to that, then he would turn 224:09 it over to somebody else. 224:10 These are my pros and cons, my advantages, 224:11 my disadvantages, as I perceive them, but there are 224:12 undoubtedly others. 224:13 Q. If you look at just -- I think to get to 224:14 your summary here, if you look at the sentence at 224:15 the bottom of page 3 that's cut off there, it starts 224:16 with, "If enough producers adopt the practice of" --		
🔗 826.2.1			
🔗 826.3.1			
🔗 826.4.2			

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DESIGNATION	SOURCE	DURATION	ID
	224:17 and then it continues on to the next page		
	224:18 "backfilling, we would be faced with an additional 2		
	224:19 to 2.5 percent laying hens and a resultant egg price		
	224:20 depression of 10 percent or 5 to 6 cents per dozen		
	224:21 (or more)."		
	224:22 Do you see that?		
	224:23 A. Yes.		
	224:24 Q. And was that a concern that you had at this		
	224:25 time, that the practice of backfilling could lead to		
	225:01 that?		
	225:02 A. After he asked me to give some thought to		
	225:03 this subject, and this -- a paper like this might		
	225:04 take me a day's worth of thought, as opposed to five		
	225:05 minutes here, but that's my conclusions about that		
	225:06 one issue of the backfilling.		
	225:07 Q. And that raised concerns for you?		
	225:08 A. Well, that's a significant amount of money.		
	225:09 Q. And you then, in bold, underlined --		
	225:10 basically cautioned individual producers not to		
	225:11 engage in that practice, right?		
	225:12 A. Yes. I'm concerned about multiple small		
	225:13 amounts giving us a large amount. And if you just		
	225:14 look at one little thing and say that it only		
	225:15 affects the industry by a penny a hen, well, you		
	225:16 multiply that by almost 300,000 -- 300 million, and		
	225:17 then you are talking about the real money. But if		
	225:18 you are also relating it to the profitability of the		
	225:19 industry where you're talking about maybe 25 to 50		
	225:20 cents, well, 1 cent a hen is several percentage		
	225:21 points.		
	225:22 Q. And do you recall whether at this time		
	225:23 Mr. Gregory shared your concern that the use of		
	225:24 backfilling in the industry could hurt the		
	225:25 industry's profitability?		
226:03 - 227:08	Bell, Donald 2013-08-21	00:01:13	Bell_Final.178
	226:03 THE WITNESS: He asked me to give a		
	226:04 two-sided viewpoint in the first place. So he was		
	226:05 concerned, enough of his people were concerned, that		
	226:06 they should address it. And he didn't feel like he		
	226:07 was capable of doing it himself and I was available,		

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DESIGNATION	SOURCE	DURATION	ID
	226:08 and so he, undoubtedly, asked me to give it some 226:09 thought. 226:10 BY MR. OLSON:		
🔗 826.5	226:11 Q. All right. And then you attach, as you'll 226:12 see on page 5, an article entitled, "Potential 🔗 826.5.1 226:13 Health Risks of Backfilling at Molt." 226:14 Do you see that? 226:15 A. Yes. 226:16 Q. By Kenton Kreager of Hy-Line International? 226:17 A. Yes. 226:18 Q. What is Hy-Line International? 226:19 A. Yes. 226:20 Q. What is Hy-Line International? 226:21 A. It is the largest producer of baby chicks. 226:22 Q. So it's an egg producer? 226:23 MR. TAKENOUCHI: No -- 226:24 BY MR. OLSON: 226:25 Q. Oh, chick producer? 227:01 A. Chick producer.		
🔗 826.5.2	227:02 Q. And do you see at the bottom Mr. Kreager, 227:03 the bottom paragraphs says, "Transfers of back-fill 227:04 hens from within the same complex should be safe, as 227:05 all houses within a complex are usually of the same 227:06 vaccination history and exposure." 227:07 Do you see that? 227:08 A. Yes, I see that.		
228:12 - 228:14	Bell, Donald 2013-08-21	00:00:16	Bell_Final.179
🔗 592.1.5	228:12 Q. I'm handing you what's been marked Bell 21. 228:13 I'm going to have to get the Bates stamp of 228:14 this document.		
228:15 - 228:15	Bell, Donald 2013-08-21	00:00:07	Bell_Final.180
	228:15 It is UE0153245 through -246.		
228:16 - 228:19	Bell, Donald 2013-08-21	00:00:11	Bell_Final.181
🔗 592.1.1	228:16 Mr. Bell, can you identify this as the 228:17 minutes of a shell egg marketing committee meeting 228:18 in October 20th, 2004 that you attended? 228:19 A. Yes.		
229:17 - 230:10	Bell, Donald 2013-08-21	00:01:05	Bell_Final.182
🔗 592.1.3	229:17 I just want to look at the -- there is a		

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DESIGNATION	SOURCE	DURATION	ID
	<p>229:18 heading at the bottom that says, "Industry</p> <p>229:19 Statistics and Economics," the bottom of page 1 and</p> <p>229:20 spills over to page 2.</p> <p>229:21 Why don't you just review that section.</p> <p>229:22 A. Ken Looper was their vice president. He</p> <p>229:23 presented -- he was a very big man on statistics.</p> <p>229:24 We corresponded -- his company is the</p> <p>229:25 largest company in the United States, it was then</p> <p>230:01 also, and he and I correspond quite a bit because we</p> <p>230:02 do have common interest.</p> <p>230:03 He reported the Chilson report, Chilson is</p> <p>230:04 an accounting firm that, at that time, was heavily</p> <p>230:05 used in the industry and he had a lot of company</p> <p>230:06 data across the country. All that was treated</p>		
🔗 592.1.6	<p>230:07 confidentially between companies.</p> <p>230:08 "Gregory presented further reports and</p> <p>230:09 pleaded with the attendees to take care of business</p> <p>230:10 by reducing their flock age" --</p>		
231:03 - 231:21	Bell, Donald 2013-08-21	00:01:00	Bell_Final.183
	<p>231:03 Q. You don't have to read it out loud.</p> <p>231:04 A. Okay. Okay. There is a statement about</p> <p>231:05 stop backfilling.</p> <p>231:06 Is that your question?</p> <p>231:07 Q. Well, that was going to be my question.</p> <p>231:08 All right. So you see a reference to Gene</p> <p>231:09 Gregory pleading with the attendees at the meeting</p> <p>231:10 to take care of business by reducing their flock</p> <p>231:11 age, stop backfilling and the use of old depreciated</p> <p>231:12 houses?</p> <p>231:13 A. Yes, I do see that.</p> <p>231:14 Q. Does that refresh your recollection on</p> <p>231:15 views expressed by Mr. Gregory at the time about</p> <p>231:16 this use of backfilling?</p> <p>231:17 A. This was four months beyond -- four or five</p> <p>231:18 months beyond my complete article here that we just</p> <p>231:19 talked about.</p> <p>231:20 Now, the problem has not been resolved in</p> <p>231:21 four months.</p>		
231:25 - 232:05	Bell, Donald 2013-08-21	00:00:24	Bell_Final.184
	231:25 Q. About Mr. Gregory's views on backfilling in		

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DESIGNATION	SOURCE	DURATION	ID
	232:01 2004. 232:02 A. I understand he's still concerned. 232:03 Q. And Mr. Gregory, at this meeting that you 232:04 attended, pleaded with producers to stop 232:05 backfilling; is that your understanding?		
232:07 - 232:08	Bell, Donald 2013-08-21	00:00:03	Bell_Final.185
<input checked="" type="checkbox"/> Clear	232:07 THE WITNESS: Along with several other 232:08 things.		
232:10 - 232:12	Bell, Donald 2013-08-21	00:00:05	Bell_Final.186
	232:10 Q. And these other things are reducing their 232:11 flock age. 232:12 What does that refer to?		
232:14 - 232:17	Bell, Donald 2013-08-21	00:00:22	Bell_Final.187
	232:14 THE WITNESS: I'm trying to think what 232:15 reducing the flock age would result in. 232:16 To me it would result in higher 232:17 productivity per bird.		
244:18 - 244:24	Bell, Donald 2013-08-21	00:00:18	Bell_Final.188
<input checked="" type="checkbox"/> 32.2.2	244:18 Q. Okay. Mr. Bell, I've handed you what has 244:19 been marked Bell Exhibit 24. It is Bates-stamped 244:20 UE0918791 through -796. 244:21 I can see you flipping through the 244:22 document. When you've had a brief chance to 244:23 familiarize yourself with the document, please let 244:24 me know.		
244:25 - 245:13	Bell, Donald 2013-08-21	00:00:32	Bell_Final.189
	244:25 And I want to really focus, if I can, just 245:01 on one e-mail. This is going to be brief. 245:02 A. Go ahead.		
<input checked="" type="checkbox"/> 32.2.3	245:03 Q. It is the one on the second page that is 245:04 from Don Lucy Bell dated Friday, May 30th, 2008 at 245:05 1:02 p.m. 245:06 A. Yes. 245:07 Q. Now, donlucybell@charter.net, is that your 245:08 e-mail address? 245:09 A. That's our personal address, yes. 245:10 Q. That's one that you use? 245:11 A. Now a hundred percent. 245:12 Q. And so can you identify that e-mail as one		

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DESIGNATION	SOURCE	DURATION	ID
	245:13 you wrote and sent to Gene Gregory on May 30, 2008?		
245:14 - 245:15	Bell, Donald 2013-08-21	00:00:06	Bell_Final.190
	245:14 A. Yes, I wrote the individual -- part of		
	245:15 this.		
245:22 - 246:15	Bell, Donald 2013-08-21	00:00:49	Bell_Final.191
 32.3.2	245:22 Now, I just want to look at the -- I		
	245:23 believe it is the third full paragraph of your		
	245:24 e-mail that starts "I recall."		
	245:25 A. What page?		
	246:01 Q. The next page, and it is in -93.		
	246:02 A. Third, "I recall."		
	246:03 Q. I would just like you to confirm that these		
 32.3.3	246:04 were your words.		
	246:05 It says, "I recall many years ago that we		
	246:06 also recommended 72 square inches for cages. We		
	246:07 also recommended against molting. Then, we		
	246:08 suggested that molting gives better returns and now,		
	246:09 under present economic conditions, we'll be		
	246:10 emphasizing no-molt programs. Things change,		
	246:11 assumptions need to be understood, economics plays a		
	246:12 major role in all such decisions," and then it		
	246:13 continues.		
	246:14 Were those your words?		
 Clear	246:15 A. Yes.		
251:14 - 252:05	Bell, Donald 2013-08-21	00:00:53	Bell_Final.192
	251:14 Q. Now, when you -- let's talk about the		
	251:15 process of you preparing these memos while you were		
	251:16 on retainer by UEP. We've seen that sometimes		
	251:17 Mr. Gregory would suggest a topic for you, right?		
	251:18 A. Yes.		
	251:19 Q. Sometimes would you come up with a topic on		
	251:20 your own?		
	251:21 A. 95 percent of the time, yes.		
	251:22 Q. And then when you finished the memo, what		
	251:23 would you do?		
	251:24 A. I would e-mail it to Mr. Gregory.		
	251:25 Q. And would Mr. Gregory -- were there ever		
	252:01 times that Mr. Gregory wrote back to you and asked		
	252:02 you to make changes in what you had prepared?		
	252:03 A. No.		

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DESIGNATION	SOURCE	DURATION	ID
	252:04 Q. That never happened? 252:05 A. Not to my knowledge.		
252:10 - 252:11	Bell, Donald 2013-08-21	00:00:11	Bell_Final.193
🔗 205.1.4	252:10 Q. Let me hand you what we've marked Bell 26. 252:11 And why don't you take out Exhibit 15.		
252:12 - 252:18	Bell, Donald 2013-08-21	00:00:10	Bell_Final.194
	252:12 A. 1-5? 252:13 Q. Yes. 252:14 A. What do we have here, a new one? 252:15 Q. Yes. 252:16 A. You want to talk about that first? 252:17 Q. Pull out 15 and put that to the side, and 252:18 I'd like you to look at what we've marked as 26.		
252:23 - 253:21	Bell, Donald 2013-08-21	00:01:16	Bell_Final.195
🔗 205.1.1	252:23 Q. Now, Mr. Bell, can you identify Bell 26 as 252:24 an e-mail you received from Gene Gregory on April 252:25 17th, 2002? 253:01 A. Yes. 253:02 Q. And Mr. Gregory is responding to an e-mail 253:03 that you sent to him on April 16th, 2002 in which 253:04 you had attached one of your economic memos; is that 253:05 right? 253:06 A. Yes, yes. 253:07 Q. And that's the memo that's Exhibit 15, 253:08 right? 253:09 A. Yes. 253:10 Q. And does Bell Exhibit 26 refresh your 253:11 recollection about Mr. Gregory requesting that you 253:12 make changes? 253:13 A. Yes. I interpreted that as editorial 253:14 suggestions, not necessarily that I responded to 253:15 that, but he was suggesting this. 253:16 Q. So in Bell Exhibit 26 Mr. Gregory is making 253:17 a suggestion about changes in your economic memo in 253:18 regard to your discussion of the -- what he calls 253:19 UEP cage density reduction proposal. 253:20 Do you see that? 253:21 A. Let me have a minute, please?		
253:22 - 254:06	Bell, Donald 2013-08-21	00:00:24	Bell_Final.196

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DESIGNATION	SOURCE	DURATION	ID
	253:22 Q. Sure. 253:23 A. Do you have the original? 253:24 Q. I don't know if 15 is the original or not. 253:25 Do you? 254:01 A. My draft that I would have sent him, this 254:02 is a finished product. 254:03 Q. How can you tell it is a finished product? 254:04 A. It is what we are talking about. It is an 254:05 evolution. I wrote something, he's giving comments 254:06 about it and there must be a product.		Bell_Final.196
255:04 - 255:07	Bell, Donald 2013-08-21	00:00:12	Bell_Final.197
🔗 205.1.2	255:04 Q. For the sake of the record, what 255:05 Mr. Gregory asks you to do is to make a change in 255:06 how you discussed UEP's cage density reduction 255:07 proposal, right?		
255:09 - 256:13	Bell, Donald 2013-08-21	00:01:35	Bell_Final.198
🔗 205.1.3	255:09 THE WITNESS: That's the way I read it, 255:10 yes. 255:11 BY MR. OLSON: 255:12 Q. And he says that, "I would prefer that we 255:13 focus upon these changes being animal husbandry 255:14 guidelines, which results in increased space for 255:15 hens," right? 255:16 A. That's what he says. 255:17 Q. And he says, "I don't want anyone to think 255:18 of this as the supply reduction program, even though 255:19 we know the effect will be the same in the short 255:20 term," that's what he says, right? 255:21 A. That's what he says. 255:22 Q. And you, sitting here today, do you 255:23 remember how you responded? 255:24 A. No, but I think I responded to you often 255:25 enough here that I don't consider -- that I do 256:01 consider it an economic issue. And to separate 256:02 cause and effect which came first, the chicken or 256:03 the egg, and these questions, I'm just not sure how 256:04 to respond to you -- as a supply reduction program, 256:05 some people -- some people may have suggested this, 256:06 some people may have worked with this, some people 256:07 have -- may have voted for it, but in my role we		

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DESIGNATION	SOURCE	DURATION	ID
	256:08 weren't working on welfare. 256:09 Q. And do you -- 256:10 A. Go ahead. 256:11 Q. Did you have an understanding that 256:12 Gene Gregory was concerned about the program being 256:13 discussed as a supply reduction program?		
256:16 - 256:24	Bell, Donald 2013-08-21	00:00:36	Bell_Final.199
	256:16 THE WITNESS: I think editor, and he is the 256:17 ultimate editor, because he has to put it out, would 256:18 be concerned about somebody's phraseology and 256:19 emphasis, degrees of emphasis relative to his own 256:20 emphasis. 256:21 I wrote it from my viewpoint, and it's not 256:22 perfect. So he apparently thought the tone or the 256:23 emphasis was somewhat controversial and wanted me to 256:24 reconsider it in his letter.		
264:03 - 264:06	Bell, Donald 2013-08-21	00:00:10	Bell_Final.200
🔗 160.1.2	264:03 Q. Look at Bell 17. And the Bates 264:04 number on the first page is CM430620. I think it is 264:05 in front of you. 264:06 A. Yes.		
264:12 - 264:25	Bell, Donald 2013-08-21	00:00:36	Bell_Final.201
🔗 160.11	264:12 Now, if you look on there, a little below the middle 264:13 part of the page, do you see a paragraph starting 🔗 160.11.4		
	264:14 "UEP's Animal Husbandry Guidelines"? 264:15 A. Yes. 🔗 160.11.7		
	264:16 Q. Could you read that first sentence there? 264:17 A. "UEP's animal husbandry guidelines were 264:18 never intended as a supply management program." 264:19 Q. Okay. Now, I think when you were 264:20 questioned about that before you weren't paying 264:21 attention to some other language there, but for that 264:22 particular portion of that sentence, did you 264:23 understand that to be the case? 264:24 A. That was what I understand to be our 264:25 mission as a committee.		
265:01 - 265:04	Bell, Donald 2013-08-21	00:00:04	Bell_Final.202
	265:01 Q. Okay. So this statement here was 265:02 consistent with what your understanding of the		

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DESIGNATION	SOURCE	DURATION	ID
<input checked="" type="checkbox"/> Clear	265:03 mission was? 265:04 A. Yes.		
265:07 - 266:06	Bell, Donald 2013-08-21	00:01:24	Bell_Final.203
	265:07 Q. And when you say, "our mission as a 265:08 committee," what do you mean? 265:09 A. The committee's mission that they were 265:10 requested to study and recommend was not a supply 265:11 management program, but, instead, it was an animal 265:12 welfare committee, and that's what we emphasized. 265:13 Q. And you're referring to the Scientific 265:14 Advisory Committee, correct? 265:15 A. Yes. 265:16 Q. Are there any animal welfare benefits to 265:17 reduce the cage density? 265:18 A. Yes. 265:19 Q. And what are those? 265:20 A. Chickens would have -- would produce less 265:21 eggs at more dense conditions. They will die at a 265:22 higher rate, they will crack more eggs. They will 265:23 have more health problems, as they are crowded, and 265:24 they may pick at each other more if they are 265:25 crowded. 266:01 Is this your question? 266:02 Q. Yes. 266:03 A. Yes. And that's why the committee on 266:04 animal welfare, Scientific Advisory Committee for 266:05 animal welfare, we placed as much emphasis as they 266:06 did on the question of cage density.		
266:23 - 267:19	Bell, Donald 2013-08-21	00:01:23	Bell_Final.204
	266:23 Q. Do you know why cage density came up in the 266:24 context of the Scientific Advisory Committee's work? 266:25 A. Like I indicated, because of its impact on 267:01 the welfare of the chickens. The research -- I 267:02 listed half a dozen right now, reasons, and the 267:03 drive behind the committee's formation was the 267:04 result of the humane society's concern about animal 267:05 welfare. And that was the pressure, tens of 267:06 thousands of dollars were being spent to argue their 267:07 point, the humane society, as well as United Egg 267:08 Producers. It had to be resolved, and it still has		

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DESIGNATION	SOURCE	DURATION	ID
	267:09 to be resolved.		
267:10	Q. Around that time were there other entities		
267:11	that were making changes or demanding changes about		
267:12	animal welfare?		
267:13	A. There's just a list as long as your arm of		
267:14	activist organizations that are promoting animal		
267:15	welfare as they interpret it. Some of it may		
267:16	emphasize cages, some of it may emphasize molting,		
267:17	some may emphasize beak trimming, some of it		
267:18	just they don't like animals to be used. That's a		
267:19	very big problem.		
267:20 - 267:21	Bell, Donald 2013-08-21	00:00:04	Bell_Final.205
267:20	Q. And was this an issue back in 2000, 1999?		
267:21	A. Yes, it was. Yes, it was.		
272:15 - 272:16	Bell, Donald 2013-08-21	00:00:10	Bell_Final.206
🔗 154.1.3	272:15 I want to show you -- referring back to --		
	272:16 take a look at Bell 19. This is Bates-numbered UE		
272:17 - 272:19	Bell, Donald 2013-08-21	00:00:11	Bell_Final.207
	272:17 880125.		
🔗 154.2.1	272:18 And this is another -- it's a commentary		
	272:19 you wrote in March 2004.		
274:08 - 274:10	Bell, Donald 2013-08-21	00:00:09	Bell_Final.208
☒ Clear	274:08 Q. The period after this, mid to late 2004		
	274:09 going into 2005, was there a price trend in that		
	274:10 period that you recall?		
274:12 - 274:22	Bell, Donald 2013-08-21	00:00:46	Bell_Final.209
	274:12 THE WITNESS: Well, this time is right		
	274:13 after the avian influenza problem on the East Coast		
	274:14 where 2 million birds, I believe, were disposed or		
	274:15 killed. That, in itself, raised the price of eggs		
	274:16 for the next year or two for the nation.		
	274:17 After that was over with and production		
	274:18 came back to normal, the rest of the nation took		
	274:19 their retail egg prices down to where it was.		
	274:20 California left it where it was because they had		
	274:21 shown that that pricing policy that they used at		
	274:22 that time was effective.		
274:24 - 274:25	Bell, Donald 2013-08-21	00:00:05	Bell_Final.210
	274:24 Q. So after the avian influenza in effect in		

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DESIGNATION	SOURCE	DURATION	ID
	274:25 2004, prices dropped again?		
275:02 - 275:02	Bell, Donald 2013-08-21	00:00:01	Bell_Final.211
	275:02 THE WITNESS: But not in California.		
283:10 - 283:18	Bell, Donald 2013-08-21	00:00:16	Bell_Final.212
	283:10 Q. Now, I think you testified earlier about		
	283:11 some of the benefits of giving hens more space?		
	283:12 A. Yes.		
	283:13 Q. And I think you said something about		
	283:14 productivity.		
	283:15 Do you remember that?		
	283:16 A. Productivity means eggs.		
	283:17 Q. Okay. So how does giving hens more space		
	283:18 result in more eggs?		
283:20 - 284:01	Bell, Donald 2013-08-21	00:00:31	Bell_Final.213
	283:20 THE WITNESS: It is their response to being		
	283:21 crowded. What's the total length of time? Normally		
	283:22 there is good evidence in the 50- to 80-square-inch		
	283:23 range per bird that there is a step-by-step		
	283:24 regression relationship in that question, so -- have		
	283:25 I answered your question yet or do you want to		
	284:01 restate it?		
284:04 - 284:05	Bell, Donald 2013-08-21	00:00:03	Bell_Final.214
	284:04 Does giving hens more space result in more		
	284:05 eggs?		
284:07 - 284:07	Bell, Donald 2013-08-21	00:00:01	Bell_Final.215
	284:07 THE WITNESS: Yes.		
284:09 - 284:15	Bell, Donald 2013-08-21	00:00:21	Bell_Final.216
	284:09 Q. And how, exactly, does it --		
	284:10 A. How does it happen?		
	284:11 Q. Yes.		
	284:12 A. It is part of the peck order, which is a		
	284:13 sociological phenomena, that relates to chicken or		
	284:14 people, or whatever. It relates to access to the		
	284:15 feed and to the water.		
298:05 - 298:11	Bell, Donald 2013-08-21	00:00:29	Bell_Final.217
	298:05 Did your consultant agreement with UEP		
	298:06 include compensation for your service on the		
	298:07 Scientific Advisory Committee?		

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DESIGNATION	SOURCE	DURATION	ID
	298:08 A. No. I was on a retainer for just my time. 298:09 I think I said earlier that I received expenses. I 298:10 don't recall ever receiving an honorarium or a 298:11 special check or anything like that.		
298:12 - 298:16	Bell, Donald 2013-08-21	00:00:13	Bell_Final.218
	298:12 So it was my -- it was assumed that I would 298:13 attend the committee meeting, that's why they wanted 298:14 me on there in the first place. 298:15 And that was just part of my regular 298:16 activity.		
299:02 - 299:10	Bell, Donald 2013-08-21	00:00:15	Bell_Final.219
	299:02 Q. I'm just focusing now on the task you 299:03 agreed to do as part of your economic consultant 299:04 agreement. 299:05 A. Yes. 299:06 Q. And try to differentiate that from the 299:07 tasks outside the agreement. 299:08 So was the service on the Scientific 299:09 Advisory Committee part of this agreement or was it 299:10 something outside of this agreement?		
299:12 - 299:16	Bell, Donald 2013-08-21	00:00:17	Bell_Final.220
	299:12 THE WITNESS: No, the task on the 299:13 Scientific Advisory Committee, I guess, started in 299:14 '99, right? 299:15 This agreement here is dated 2001. That 299:16 coincides with my retirement period.		
301:09 - 301:11	Bell, Donald 2013-08-21	00:00:06	Bell_Final.221
	301:09 Q. Were you ever paid, other than expenses and 301:10 lodging, for your services on the Scientific 301:11 Advisory Committee?		
301:13 - 301:15	Bell, Donald 2013-08-21	00:00:12	Bell_Final.222
	301:13 THE WITNESS: I don't think so. Just the 301:14 travel expenses and my ongoing relationship -- 301:15 ongoing agreement.		
301:16 - 301:21	Bell, Donald 2013-08-21	00:00:07	Bell_Final.223
	301:16 BY MR. TAKENOUCHI: 301:17 Q. That answer was a little unclear to me. 301:18 A. You want more? 301:19 Q. Okay. Other than expenses and lodging,		

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DESIGNATION	SOURCE	DURATION	ID
	301:20 taking that out of the equation -- 301:21 A. Okay, okay.		
301:22 - 301:23	Bell, Donald 2013-08-21	00:00:05	Bell_Final.224
	301:22 Q. -- were you ever paid for your services on 301:23 the Scientific Advisory Committee?		
301:25 - 302:01	Bell, Donald 2013-08-21	00:00:04	Bell_Final.225
	301:25 THE WITNESS: As a member of the Scientific 302:01 Advisory Committee, was I ever paid for that --		
302:02 - 302:03	Bell, Donald 2013-08-21	00:00:00	Bell_Final.226
	302:02 BY MR. TAKENOUCHI: 302:03 Q. Yes.		
302:04 - 302:04	Bell, Donald 2013-08-21	00:00:02	Bell_Final.227
	302:04 A. -- separately? No.		
318:18 - 320:02	Bell, Donald 2013-08-21	00:02:28	Bell_Final.228
	318:18 Q. Do you know when you first started 318:19 recommending to producers that they might want to 318:20 look at their supply issues if they were concerned 318:21 about being a viable business? 318:22 A. I didn't -- I haven't said this before, but 318:23 it was inferred, that 40 percent of the time your 318:24 clients are losing money. And that is a repeatable 318:25 concept as far as I went back in my career. And I 319:01 started in 1957 with the year '57 analysis, and I 319:02 started in January of '58. 319:03 My experience was that that was frequent 319:04 enough, either -- either one month after another, 319:05 one year after another, or for that period that 319:06 that's a serious problem. 319:07 And when you relate it to the number of 319:08 eggs that are produced and the size of the flock and 319:09 all that, it's a very important relationship. 319:10 So much of my program had to do with 319:11 bringing that into line. 319:12 Approximately in a five-year period -- I 319:13 believe I testified to this yesterday, five or 319:14 six-year period is a cycle. 319:15 What I mean by a cycle, it means from good 319:16 to poor to bad to poor back to good annually. 319:17 And so I would say that there's two years		

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DESIGNATION	SOURCE	DURATION	ID
	319:18 of poor, two years of fair, one year of good in 319:19 every cycle. That's an important concept that maybe 319:20 outsiders don't realize, is that it's not a 319:21 continuously good or bad industry. It's an 319:22 up-and-down situation. 319:23 One of the highest peaks of profitability 319:24 we had was in the last four or five years, and it 319:25 had to do with the high cost of corn and so on. But 320:01 the up was in three months and the down was in three 320:02 months.		
321:02 - 321:09	Bell, Donald 2013-08-21	00:00:25	Bell_Final.229
	321:02 Q. Okay. So going back to the reports you did 321:03 for the cooperative extension, I think I'd asked if 321:04 you remembered when you first started telling 321:05 individual farmers or writing in newsletters that 321:06 there is a relationship between the supply of eggs 321:07 and the price of eggs? 321:08 A. Soon as I was convinced that this was an 321:09 ongoing problem.		
324:03 - 324:06	Bell, Donald 2013-08-21	00:00:08	Bell_Final.230
	324:03 Q. But you talk with USDA economists about 324:04 your recommendation about how to better match supply 324:05 and demand and, therefore, affect prices? 324:06 A. Yes.		
324:17 - 324:17	Bell, Donald 2013-08-21	00:00:04	Bell_Final.231
🔗 1.1.2	324:17 Q. Sir, I want to refer you to Bell 8.		
324:18 - 324:21	Bell, Donald 2013-08-21	00:00:04	Bell_Final.232
	324:18 A. 8. 324:19 Q. This is that August 2nd, 1999 United 324:20 Voices. 324:21 A. Okay. Go ahead.		
324:22 - 325:01	Bell, Donald 2013-08-21	00:00:19	Bell_Final.233
🔗 1.3	324:22 Q. And I think what we were looking at in this 324:23 document was on page 3, and I believe there's four 324:24 numbers there -- 1, 2, 3, 4 -- those		
🔗 1.3.1	324:25 recommendations. I don't know how to characterize 325:01 those.		
334:01 - 334:03	Bell, Donald 2013-08-21	00:00:05	Bell_Final.234
	334:01 Q. What would have happened if there hadn't		

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DESIGNATION	SOURCE	DURATION	ID
	334:02 been this phasing-in period for these cage space 334:03 guidelines?		
334:05 - 334:09	Bell, Donald 2013-08-21	00:00:13	Bell_Final.235
	334:05 THE WITNESS: Well, an example is you might 334:06 get all the attorneys in the United States getting 334:07 after the regulators and saying that you're going to 334:08 put the whole business -- whole business out of 334:09 business.		
334:18 - 334:22	Bell, Donald 2013-08-21	00:00:19	Bell_Final.236
	334:18 ... You just 334:19 don't make changes overnight with six-month-old 334:20 bunch of birds, you don't kill six-month-old birds. 334:21 So just from logistic standpoint, the 334:22 transition period is very critical.		
334:24 - 335:01	Bell, Donald 2013-08-21	00:00:09	Bell_Final.237
	334:24 Q. If there hadn't been that transition period 334:25 for the cage space portion of the guidelines, what 335:01 would the effect have been on egg prices?		
335:03 - 335:10	Bell, Donald 2013-08-21	00:00:24	Bell_Final.238
	335:03 THE WITNESS: Well, I don't think it would 335:04 be enforceable to think that anybody could do it 335:05 overnight. Transition can be as much as one day, 335:06 one year, ten years, whatever. 335:07 We know what this was requested here as far 335:08 as transition period, but if it was a transition 335:09 period of one year, it would have been a 335:10 catastrophe.		
335:12 - 335:23	Bell, Donald 2013-08-21	00:00:37	Bell_Final.239
	335:12 Q. And what would be the price effects of that 335:13 catastrophe? 335:14 A. Probably you couldn't pay for the eggs, and 335:15 then the market would be disrupted, eggs would not 335:16 travel across the country. 335:17 Price would escalate, the consumer would 335:18 have to foot the bill, and then you might even have 335:19 a shortage. 335:20 You might have a shortage to the point that 335:21 a supermarket chain might just run out of eggs, 335:22 period, for a day or two, if there was no orderly		

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DESIGNATION	SOURCE	DURATION	ID
	335:23 transition.		
336:01 - 336:05	Bell, Donald 2013-08-21	00:00:09	Bell_Final.240
<input checked="" type="checkbox"/> Clear	336:01 Mr. Bell, do you think the Scientific 336:02 Advisory Committee was a sham designed to just 336:03 rubber-stamp an effort by egg producers to inflate 336:04 prices? 336:05 A. Absolutely not.		
336:18 - 336:21	Bell, Donald 2013-08-21	00:00:10	Bell_Final.241
	336:18 Q. At any time while the committee was doing 336:19 its work, did anyone ever tell you that the 336:20 Scientific Advisory Committee was a sham designed to 336:21 rubber-stamp a conspiracy to inflate egg prices?		
336:23 - 336:23	Bell, Donald 2013-08-21	00:00:01	Bell_Final.242
	336:23 THE WITNESS: No.		
336:25 - 337:04	Bell, Donald 2013-08-21	00:00:10	Bell_Final.243
	336:25 Q. Did any members of the Scientific Advisory 337:01 Committee ever say that they felt their role was to 337:02 help the industry suppress the supply of eggs and, 337:03 thereby, increase egg prices? 337:04 A. No.		
337:07 - 337:10	Bell, Donald 2013-08-21	00:00:12	Bell_Final.244
	337:07 Q. If the goal of the Scientific Advisory 337:08 Committee had been to inflate egg prices, do you 337:09 think the members of the Scientific Advisory 337:10 Committee would have participated in the committee?		
337:11 - 337:11	Bell, Donald 2013-08-21	00:00:02	Bell_Final.245
	337:11 A. Not the specific members --		
337:13 - 337:18	Bell, Donald 2013-08-21	00:00:18	Bell_Final.246
	337:13 THE WITNESS: The composition of the 337:14 committee would be totally different. If the issue 337:15 was health of the industry or economic health or 337:16 what have you, this committee had its expertise in 337:17 animal welfare, period. 337:18 I was the only one that ever was concerned		
337:19 - 337:21	Bell, Donald 2013-08-21	00:00:12	Bell_Final.247
	337:19 about the economics of what was going on or being 337:20 recommended, but animal welfare was the driver in 337:21 this committee.		

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DESIGNATION	SOURCE	DURATION	ID
338:13 - 338:18	Bell, Donald 2013-08-21	00:00:18	Bell_Final.248
	338:13 Q. Mr. Bell, did you initiate any discussions		
	338:14 during your service on the Scientific Advisory		
	338:15 Committee where you had the goal of increasing egg		
	338:16 prices?		
	338:17 A. I didn't have the role of increasing egg		
	338:18 prices as a member of the committee.		
338:19 - 338:22	Bell, Donald 2013-08-21	00:00:15	Bell_Final.249
	338:19 I'm able to separate -- I'm able to		
	338:20 separate topics, and today we're going to talk about		
	338:21 animal welfare and tomorrow I'm going to still be		
	338:22 concerned about egg prices.		

As Played02:28:29**TOTAL RUN TIME****02:28:29**

Documents linked to video:

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